



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF R-B-Z-

DATE: FEB. 22, 2017

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a kickboxer, seeks classification as an individual of extraordinary ability in athletics. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director, Texas Service Center, denied the petition, concluding that the Petitioner had not satisfied any of the initial evidentiary criteria, of which he must meet at least three.

The matter is now before us on appeal. In his appeal, the Petitioner submits documentation and a brief stating that he meets at least three criteria.<sup>1</sup>

Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 203(b) of the Act states in pertinent part:

(1) Priority workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with extraordinary ability. – An alien is described in this subparagraph if –

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national

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<sup>1</sup> In addition, the Petitioner requested, and we granted, an extension of time to provide additional documentation. As of the date of this decision, however, we have received nothing further. Accordingly, the record is considered complete as it now stands.

or international acclaim and whose achievements have been recognized in the field through extensive documentation,

- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Satisfaction of at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011), *aff'd*, 683 F.3d 1030 (9th Cir. 2012); *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (holding that the "truth is to be determined not by the quantity of evidence alone but by its quality" and that U.S. Citizenship and Immigration Services (USCIS) examines "each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true"). Accordingly, where a petitioner submits qualifying evidence under at least three criteria, we will determine whether the totality of the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor.

## II. ANALYSIS

The Petitioner is a kickboxer who has competed in tournaments around the world. Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). In denying the petition, the Director found that the Petitioner did not meet any of the regulatory criteria. On appeal, the Petitioner maintains that he meets the awards criterion under 8 C.F.R. § 204.5(h)(3)(i), the membership criterion under 8 C.F.R. § 204.5(h)(3)(ii), the published material criterion under 8 C.F.R. § 204.5(h)(3)(iii), the judging criterion under 8 C.F.R.

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§ 204.5(h)(3)(iv), and the leading or critical role criterion under 8 C.F.R. § 204.5(h)(3)(viii).<sup>2</sup> We have reviewed all of the evidence in the record of proceedings, and it does not support a finding that the Petitioner meets the plain language requirements of at least three criteria.

A. Evidentiary Criteria

*Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.* 8 C.F.R. § 204.5(h)(3)(i).

On appeal, the Petitioner contends that his awards, certificates, belts, and titles from the [REDACTED] the [REDACTED] the [REDACTED] and the [REDACTED] meet this criterion. The plain language of the regulation requires the Petitioner's prizes or awards to be nationally or internationally recognized for excellence. Although he presents background information regarding the sporting associations, the Petitioner did not demonstrate that his prizes or awards are nationally or internationally recognized for excellence in the field.

For instance, the Petitioner submitted a certificate reflecting that he won gold at the 2012 [REDACTED] in [REDACTED] Florida. While he presented screenshots regarding [REDACTED] history, the Petitioner did not provide evidence of publicity for the award or other documentation demonstrating that his gold award at this event is considered to be nationally or internationally recognized for excellence in kickboxing. We are not persuaded that all awards from events under the auspices of the above kickboxing associations are nationally or internationally recognized for excellence in the field. The submission of evidence reflecting his receipt of awards and regarding background information of the awarding entities is insufficient to meet the plain language of this regulatory criterion without documentation showing the awards' national or international recognition in the field. Accordingly, the Petitioner did not establish that he meets this criterion.

*Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.* 8 C.F.R. § 204.5(h)(3)(ii).

The Petitioner claims eligibility for this criterion for the first time on appeal based on his memberships with [REDACTED] and [REDACTED]. Specifically, the Petitioner indicates that "[a]lthough, these organizations do not formally list their membership requirements on their websites, evidently, in order to compete for such a lengthy period of time with these reputable organizations, one must possess outstanding achievements."

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<sup>2</sup> Although he previously claimed eligibility for the original contributions criterion under 8 C.F.R. § 204.5(h)(3)(v), on appeal the Petitioner does not contest the Director's finding, offer further arguments, or submit additional evidence for this criterion, nor does the record support a finding that he meets it. Accordingly, we will not address this criterion in this decision.

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In order to demonstrate that membership in an association meets this criterion, a petitioner must show that the association requires outstanding achievements as an essential condition for membership. Regarding [REDACTED] and [REDACTED] the Petitioner submits letters confirming his memberships and competitions, but they do not identify the membership requirements for the respective associations. Furthermore, according to [REDACTED] screenshots offered by the Petitioner, “[t]he [REDACTED] is open to everybody.” This statement does not indicate that the association requires outstanding achievements as a necessary stipulation. Without supporting evidence reflecting the membership requirements, we are not persuaded by the Petitioner’s contention that competing for a length of time demonstrates outstanding achievements. The Petitioner has not established that his membership with [REDACTED] and [REDACTED] are based on his outstanding achievements, as judged by recognized national or international experts, rather than eligibility for membership based on his professional status as a kickboxer.

Moreover, the Petitioner refers to a letter from [REDACTED] president of [REDACTED] who stated that “[a]ll Kickboxing Clubs in Lebanon recognized by the [REDACTED] (About [REDACTED] Club[s]) are member[s] in [REDACTED] and their students attend the tournaments.” [REDACTED] letter indicates that clubs are members of [REDACTED] rather than individuals. Therefore, the Petitioner has not established that he is a member of [REDACTED]. Regardless, the automatic membership in [REDACTED] based on membership with a recognized kickboxing club is not representative of outstanding achievements, as judged by recognized national or international experts. For these reasons, the Petitioner has not shown that he meets this criterion.

*Published material about the alien in professional or major trade publications or other major media, relating to the alien’s work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation. 8 C.F.R. § 204.5(h)(3)(iii).*

On appeal, the Petitioner indicates eligibility for this criterion based on articles posted on the following websites: [REDACTED] and [REDACTED].

In addition, the Petitioner submits articles from [REDACTED] and [REDACTED]. In order for published material to meet this criterion, it must be about the Petitioner, include the title, date, and author of the material, and be published in professional or major trade publications or other major media.

Regarding [REDACTED] and [REDACTED] the screenshots are essentially the same article with minor variations. Although the screenshots are about the Petitioner relating to his work as kickboxer, they do not contain the author of the material as required by the regulation. In addition, the Petitioner did not demonstrate that the websites are major media. While the Petitioner submitted information regarding [REDACTED] it relates to the printed publication rather than the website.

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Pertaining to the screenshot from [REDACTED] it does not reflect material about the Petitioner. Instead, the screenshot is about [REDACTED] participating in a championship in Greece in which the Petitioner is mentioned once as being one of several participants. Articles that are not about the petitioner do not meet this regulatory criterion. *See, e.g., Negro-Plumpe v. Okin*, 2:07-CV-820-ECR-RJJ at \*1, \*7 (D. Nev. Sept. 8, 2008) (upholding a finding that articles about a show are not about the actor). Moreover, Petitioner did not include the author of the screenshot.

Similarly, the article in the [REDACTED] is about [REDACTED] participating in an event in [REDACTED] Florida, and the Petitioner is mentioned one time along with other members as being part of the delegation. The article is not about the Petitioner relating to his work consistent with the plain language of this regulatory criterion. Further, the Petitioner did not include the author of the article.

Finally, a review of the [REDACTED] article reflects published material about the Petitioner relating to his work. The Petitioner, however, did not show that the newsletter is a professional or major trade publication or other major media; rather it appears to be a locally distributed publication. Without evidence establishing published material about him relating to his work in professional or major trade publication or other major media, the Petitioner did not demonstrate that he meets this criterion.

*Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.* 8 C.F.R. § 204.5(h)(3)(iv).

The Petitioner claims eligibility for this criterion on appeal. The record contains evidence reflecting that the Petitioner has served as a judge at the [REDACTED] and the [REDACTED]. As such, the Petitioner demonstrated that he meets this criterion.

*Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.* 8 C.F.R. § 204.5(h)(3)(viii).

The Petitioner did not previously claim eligibility for this criterion. On appeal, the Petitioner contends that he performed in a leading and critical role for the [REDACTED] based on “competing for the Lebanese national title for many years and [winning] a record [REDACTED] competitions over that time.” He refers to [REDACTED] previously discussed letter indicating that the Petitioner has attended [REDACTED] championships, tournaments, and training and referee seminars. In addition, [REDACTED] stated that there is a new board of directors elected every 4 years that includes a president, two vice presidents, general secretary, treasurer, and accountant.

In general, a leading role is evidenced from the role itself. The Petitioner has not shown how his role as a competitor is reflective of a leading role for [REDACTED]. Furthermore, the Petitioner has not indicated where his position fits in the overall hierarchy of [REDACTED]. The record does not include

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evidence, for example, differentiating his role as a competitor from the roles of the other competitors or members of the board of directors.

Furthermore, a critical role is one in which a petitioner was responsible for the success or standing of the organization or establishment. Although [REDACTED] letter refers to the Petitioner as “one of our famous Champions,” the Petitioner did not demonstrate how his personal successes impacted [REDACTED] standing in the field. For instance, the Petitioner did not show that [REDACTED] garnered attention based on his tournament results. Accordingly, the Petitioner has not established that he performed in a critical role for [REDACTED]

Finally, the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(viii) requires the organization or establishment to have a distinguished reputation. The record does not include sufficient evidence to establish that [REDACTED] enjoys a distinguished reputation. The submitted evidence, for example, does not discuss [REDACTED] reputation in the kickboxing field or reference any awards or accolades. For these reasons, the Petitioner has not met his burden of demonstrating his eligibility under this criterion.

#### B. Summary

As explained above, the record only satisfies one of the regulatory criteria. As a result, the Petitioner has not submitted the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

Had the Petitioner satisfied at least three evidentiary categories, the next step would be a final merits determination that considers all of evidence in the context of whether or not the Petitioner has demonstrated: (1) a “level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor,” and (2) that the individual “has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise.” 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. Although we need not provide the type of final merits determination referenced in *Kazarian*, a review of the record in the aggregate supports a finding that the Petitioner has not established the level of expertise required for the classification sought.

### III. CONCLUSION

The Petitioner has not demonstrated by a preponderance of the evidence that he is an individual of extraordinary ability under section 203(b)(1)(A) of the Act. Accordingly, he has not established eligibility for the immigration benefit sought.

**ORDER:** The appeal is dismissed.

Cite as *Matter of R-B-Z-*, ID# 201865 (AAO Feb. 22, 2017)