



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

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

MATTER OF R-S-

DATE: JAN. 18, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a sailing competitor and coach, 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, Nebraska Service Center, denied the petition, concluding that the Petitioner had not met the initial evidence requirements set forth at 8 C.F.R. § 204.5(h)(3), which requires documentation of a one-time achievement or evidence that meets at least three of the ten regulatory criteria.

The matter is now before us on appeal. In her appeal, the Petitioner contends that she meets more than three criteria based on her awards, association memberships, published material, judging, and original contributions.

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

I. LAW

The Petitioner may demonstrate her extraordinary ability through sustained national or international acclaim and achievements that have been recognized in her field through extensive documentation. Specifically, section 203(b)(1)(A) of the Act states:

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 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

(b)(6)

Matter of R-S-

(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 her achievements in the field through a one-time achievement (that is a major, internationally recognized award). If a petitioner does not submit this documentation, then she must provide sufficient qualifying evidence that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

However, satisfaction of at least three criteria 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 stated that she is "a highly decorated sailor in [redacted] national, and international classes of yachts, and a successful sailing coach." The record includes a [redacted] 2016 letter from the chairman of the racing and sailing school committees at the [redacted] in [redacted] New York, indicating that the club intends to employ her as a sailing competitor and coach. The Director found that the Petitioner met the membership criterion under 8 C.F.R. § 204.5(h)(3)(ii), but had not satisfied any of the other criteria at 8 C.F.R. § 204.5(h)(3). On appeal, the Petitioner maintains that she meets the awards criterion under 8 C.F.R. § 204.5(h)(3)(i), the published material criterion under 8 C.F.R. § 204.5(h)(3)(iii), the judging criterion under 8 C.F.R. § 204.5(h)(3)(iv), and the original contributions criterion under 8 C.F.R. § 204.5(h)(3)(v).¹ We have reviewed the entire

¹ Although she previously claimed eligibility for the leading or critical role criterion under 8 C.F.R. § 204.5(h)(3)(viii), on appeal the Petitioner does not contest the Director's determination, offer further arguments, or submit additional evidence for this criterion on appeal, nor does the record support a finding that she meets it. Accordingly, we will not address the criterion in this decision.

(b)(6)

Matter of R-S-

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

Because the Petitioner has not established that she has received a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

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).

The Petitioner submitted evidence indicating that she won first place in multiple Russian sailing competitions between 2006 and 2011, such as the [REDACTED] and the [REDACTED]. She also provided media coverage of the competitions indicating that the awards are nationally recognized in her sport. Accordingly, the Petitioner has established that she meets this regulatory 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 Director determined that the Petitioner established eligibility for this criterion. For the reasons outlined below, we find that the Petitioner has not submitted sufficient documentary evidence showing that she meets the plain language of this criterion. Accordingly, the Director's determination on this issue will be withdrawn.

The Petitioner submitted her 2015-2016 membership card for [REDACTED] but she did not provide evidence showing that the association requires outstanding achievements of its members, as judged by recognized national or international experts in the sport. She also offered a January 2006 certificate from the [REDACTED] with an accompanying English language translation stating that she was "awarded the [REDACTED]" The Petitioner provided an English language document entitled "Requirements and conditions for awarding the [REDACTED]" but the record does not include the original document in the Russian language from the [REDACTED]. Without the original Russian language document, the information provided lacks probative value. Regardless, the Petitioner's [REDACTED] is an award, and not documentation of her membership in an association in the field.

The Petitioner also provided a June 2015 letter from [REDACTED] president of the [REDACTED] in Russia, stating that the Petitioner "is an active member" of

(b)(6)

Matter of R-S-

and that, “[i]n compliance with the membership is granted to athletes and/or coaches of good moral character and bearers of the titles or regulations to support statement. Statements made without supporting documentation are of limited probative value and are not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm’r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg’l Comm’r 1972)). While the Petitioner submitted her certificate, the documentation offered does not demonstrate that requires outstanding achievements of its members, as judged by recognized national or international experts in sailing. For these reasons, the Petitioner has not demonstrated that she meets this regulatory 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).

The Petitioner submitted a 2015 article about her in newspaper in website states that its online newspaper attracts “108,000 unique visitors monthly” or “3,600 unique visitors daily” and the newspaper’s media kit lists an “estimated 61,000 weekly readership,” but the record does not include documentary evidence showing that the aforementioned visitors and readership numbers elevate the newspaper to a form of major media relative to other online news sources.²

The Petitioner also provided an 2009 article in entitled ‘ However, the article only briefly mentions the Petitioner and is instead about visit to the and the award ceremony he presided over in which 50 students received scholarships. The plain language of the regulatory criterion requires “published material about the alien.” Articles that are not about the Petitioner do not meet this regulatory criterion. *See, e.g., Negro-Plumpe v. Okin*, 2:07-CV-00820 at *1, *7 (D. Nev. Sept. 2008) (upholding a finding that articles about a show are not about the actor). Furthermore, although the Petitioner submitted a webpage indicating that has a circulation of 18,000, she did not provide documentary evidence demonstrating that such circulation qualifies the newspaper as a form of major media.

The record also included two 2007 articles posted on the website entitled “ and “ The articles first discuss the sailing competition and then list the Petitioner’s name in the “results” section among numerous other

² In addition, we note that USCIS need not rely on self-promotional material. *See Braga v. Poulos*, No. CV 06 5105 SJO, *aff’d* 317 Fed. Appx. 680 (C.A.9) (concluding that USCIS did not have to rely on self-serving assertions on the cover of a magazine as to the magazine’s status as major media).

(b)(6)

Matter of R-S-

participants. Neither of those articles are about the Petitioner, and the record does not contain evidence showing that the [REDACTED] website is a form of major media.

In addition, the Petitioner submitted an article in [REDACTED] entitled [REDACTED] but the date and author were not identified as required by this regulatory criterion. Moreover, the article is not about the Petitioner and the record lacks documentation demonstrating that [REDACTED] equates to a form of major media. Likewise, the Petitioner provided a [REDACTED] 2006 untitled "archive" entry posted on an unidentified website, but the author of the material was not provided and the record does not contain evidence showing that the website is a form of major media.

The Petitioner also offered a [REDACTED] 2008 article appearing on the [REDACTED] website entitled [REDACTED]. While the aforementioned article is about the Petitioner, its author was not identified and [REDACTED] has not been shown to qualify as a form of major media. The Petitioner further submitted a [REDACTED] 2011 article appearing on the [REDACTED] website entitled "[REDACTED]". While a significant part of the article is about the Petitioner, the author was not identified and the record does not include evidence showing that the [REDACTED] website is a form of major media.

Lastly, the Petitioner provided a [REDACTED] 2008 article appearing on the website of [REDACTED] entitled "[REDACTED]". However, the article is about the sailing championship in [REDACTED] and not the Petitioner. On appeal, the Petitioner contends that [REDACTED] is "published not only in Russia but also in Germany and the United States, and serves a significant readership," but she does not point to specific evidence in the record to support her statement. Accordingly, she has not satisfied her burden of proof. *See Matter of Soffici*, 22 I&N Dec. at 165.

In light of the above, the Petitioner has not established that she meets this regulatory 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 provided her judging logbook from [REDACTED] and a letter from [REDACTED] president of the [REDACTED] listing the various competitions where she participated as a sailing judge. As such, the Petitioner meets this regulatory criterion.

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v).

As evidence under this criterion, the Petitioner offered four reference letters, three scholarship awards "for excellence in academic performance," and a certificate of recognition "for significant

(b)(6)

Matter of R-S-

contribution to the development of athletics and excellent representation of the [REDACTED] at athletic competitions.” The Petitioner’s scholarship awards and certificate of recognition based on her activities at [REDACTED] are more relevant to the awards category of evidence at 8 C.F.R. § 204.5(h)(3)(i), a separate and distinct criterion that she has already satisfied. Because separate criteria exist for awards and original contributions of major significance in the field, USCIS does not view the two as being interchangeable. To hold otherwise would render meaningless the statutory requirement for extensive evidence or the regulatory requirement that an individual meet at least three separate criteria. Nonetheless, the record does not establish that the aforementioned awards were indicative of the Petitioner’s original contributions of major significance in the field.

In his letter of support, [REDACTED] a former [REDACTED] champion who resides in [REDACTED] Russia, and presently coaches at the [REDACTED] stated: “[The Petitioner] became a coach at our yacht club while she was at [REDACTED]. She related both her practical skills and the theoretical knowledge she acquired at the university. The athletes she prepared showed fast positive results” In addition, [REDACTED] noted that “other coaches became interested in her innovative coaching methodology,” and that he “was among those coaches who benefited from [the Petitioner’s] ideas.” However, he did not identify her innovative methodologies or original ideas and explain how they were of major significance in the field of coaching or the sport of sailing.

[REDACTED] and [REDACTED] from the [REDACTED] at [REDACTED] offered two jointly signed letters of support. In their first letter, [REDACTED] and [REDACTED] listed the Petitioner’s awards from [REDACTED] and indicated that she graduated “with a degree and the qualification of [REDACTED].” They further stated that the Petitioner “actively participated in seminars and conferences and managed to combine her academic duties with her extensive career as an athlete.” The second letter identified three research articles authored by the Petitioner, entitled “[REDACTED]

[REDACTED] and “[REDACTED]” and [REDACTED] indicated that the Petitioner’s “papers were considered original contribution [*sic*] in the field of [REDACTED] and were published in the [REDACTED].” Although publication of the Petitioner’s research work indicates that she has added to the pool of knowledge in her field, the record lacks documentary evidence showing that her methods have affected the sport in a major way, that her techniques have been widely used to train sailing competitors, or that her work has otherwise risen to the level of contributions of major significance in the field.

On appeal, the Petitioner submits a letter of support from [REDACTED] “senior coach of the [REDACTED] Russia. [REDACTED] states: “I learned about the method of preparation of sportsmen, which [the Petitioner] offered in her scientific work. This innovative approach has made a very big impression on me. This was something completely new and I decided to test her method of training.” [REDACTED] then lists the three research articles that the Petitioner authored at [REDACTED] and indicates that her “technique works

(b)(6)

Matter of R-S-

successfully with a team.” However, [REDACTED] did not offer specific examples of how the Petitioner’s training techniques have affected the field or are otherwise commensurate with athletic contributions of major significance in the sport of sailing.

We note that the reference letters offered under this criterion were limited to the Petitioner’s colleagues from [REDACTED] Russia. We have addressed their specific affirmations above. Generalized conclusory statements that do not identify specific contributions or their impact in the field have little probative value. *See 1756, Inc.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications). In addition, uncorroborated statements are insufficient. *See Visinscaia*, 4 F.Supp.3d at 134-35; *Matter of Caron Int’l, Inc.*, 19 I&N Dec. 791, 795 (Comm’r 1988) (holding that an agency “may, in its discretion, use as advisory opinions statements . . . submitted in evidence as expert testimony,” but is ultimately responsible for making the final determination regarding an alien’s eligibility for the benefit sought). Without additional, specific evidence showing that her work has been unusually influential, has substantially impacted her sport, or has otherwise risen to the level of original contributions of major significance in the field, the Petitioner has not established that she meets this regulatory criterion.

B. Summary

As explained above, the evidence provided satisfies only two of the regulatory criteria. If the Petitioner had included the requisite material under at least three evidentiary categories, our next step would be a final merits determination that considers all of the submissions in the context of whether she has achieved: (1) a “level of expertise indicating that [she] is one of that small percentage who have risen to the very top of the field of endeavor,” and (2) “that the [petitioner] has sustained national or international acclaim” and that 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. However, because the Petitioner has not done so, the proper conclusion is that she has not satisfied the antecedent regulatory requirement of presenting initial evidence set forth at 8 C.F.R. § 204.5(h)(3)(i)-(x). *See Kazarian*, 596 F.3d at 1122. Nevertheless, although we need not provide the type of final merits determination referenced in *Kazarian*, a review of the record in the aggregate does not support a finding that the Petitioner has achieved the level of expertise required for this classification.

III. CONCLUSION

The Petitioner has not demonstrated by a preponderance of the evidence that she is an individual of extraordinary ability under section 203(b)(1)(A) of the Act. Accordingly, she has not established eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013).

Matter of R-S-

ORDER: The appeal is dismissed.

Cite as *Matter of R-S-*, ID# 134825 (AAO Jan. 18, 2017)