



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

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

MATTER OF S-H-

DATE: FEB. 12, 2018

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a bridge player, 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 of the Nebraska Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had satisfied only two of the initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner submits additional documentation and a brief, contending that he satisfies at least three criteria.

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

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to qualified immigrants with extraordinary ability 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
- (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 two options for satisfying this classification’s initial evidence requirements. First, a petitioner can demonstrate 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 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).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether 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. *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). This two-step analysis is consistent with our holding that the “truth is to be determined not by the quantity of evidence alone but by its quality,” as well as the principle that we examine “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.” *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

## II. ANALYSIS

The Petitioner is a professional bridge player who has competed in tournaments around the world. Because he has not indicated or established that he has received a major, internationally recognized award, he must satisfy at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). In denying the petition, the Director found that the Petitioner only met two criteria: awards under 8 C.F.R. § 204.5(h)(3)(i) and judging under 8 C.F.R. § 204.5(h)(3)(iv).

On appeal, the Petitioner maintains that he meets one additional criterion: published material under 8 C.F.R. § 204.5(h)(3)(iii).<sup>1</sup> We have reviewed all of the evidence in the record and conclude that it does not support a finding that the Petitioner satisfies the plain language requirements of at least three criteria.

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<sup>1</sup> While the Petitioner previously claimed eligibility for the criteria pertaining to original contributions under 8 C.F.R. § 204.5(h)(3)(v) and high salary under 8 C.F.R. § 204.5(h)(3)(ix), he does not continue to do so on appeal, nor does the record support a finding that he meets them. Accordingly, we will not further address these criteria in our decision.

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).

The Director concluded that the Petitioner met this criterion. The record indicates that he twice received the [REDACTED] which is awarded annually to Canada's top [REDACTED] winner. Accordingly, the Petitioner demonstrated that he satisfies this criterion, and we concur with the Director's findings for 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).

The Petitioner argues that an article entitled, "[REDACTED]" in [REDACTED] meets this criterion. Although the Petitioner is named twice in the article as one of the defenders, the article is about a defensive play at the [REDACTED] tournament in [REDACTED] Louisiana. Articles that are not about a 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 regarding a show are not about the actor).

In addition, the Petitioner contends that he provided numerous articles from [REDACTED]. The record contains three articles from this publication, but they are not about him, as required. Specifically, the [REDACTED] 2013 article pertains to the [REDACTED] where the Petitioner is identified one time as one of the participants. Further, while the Petitioner is mentioned in the [REDACTED] 2014 article as playing a "declarer" move, the article is about the 2014 [REDACTED]. Moreover, the [REDACTED] 2015 article relates to the [REDACTED] in which the Petitioner is cited as one of numerous other players and it includes a photograph of seven bridge players with a caption listing the Petitioner as one of them. Articles that simply mention the Petitioner as one of the players in a competition without a discussion regarding him and his work in the field are not indicative of published material about him.

In addition, the Petitioner did not establish that [REDACTED] is a professional or major trade publication or other major medium. The record reflects that the Petitioner submitted a letter from [REDACTED], managing editor, who claimed that [REDACTED] "distributes to its 168,000 members worldwide" and "has the widest circulation of any contract bridge publication and is considered one of the preeminent bridge magazines." [REDACTED] however, did not reference any source information or provide comparative statistical data to support her claims. USCIS need not rely on the self-promotional material of the publisher. *See Braga v. Poulos*, No. CV 06 5105 SJO (C. D. CA July 6, 2007) *aff'd* 2009 WL 604888 (9<sup>th</sup> Cir. 2009) (concluding that self-serving assertions on the cover of a magazine as to the magazine's status is not reliable evidence of major media).

The record contains similar material, such as articles in [REDACTED] and [REDACTED] where the Petitioner is credited in a photograph or is listed as a participant but does not reflect published material about him consistent with this regulatory criterion. Furthermore, many of the articles do not contain the author of the material as required. In addition, the Petitioner did not demonstrate they were published in professional or major trade publications or other major media. For these reasons, the Petitioner did not establish 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 Director determined that the Petitioner satisfied this criterion. The record, however, does not support that finding. At the initial filing of the petition, the Petitioner asserted that he “served on numerous appeal committees in Regional and National tournaments.” In support of this claim, he provided two recommendation letters from professional bridge players, as well as a letter from the CEO of [REDACTED]. These letters generally state that the Petitioner serves on appeals committees and they describe the associated judging duties of such a role. However, they do not provide information identifying any tournament in which the Petitioner has held this role, nor do they explain the basis of their knowledge regarding his past service as a judge of others. For example, professional bridge player [REDACTED] stated:

[The Petitioner's] good reputation is also demonstrated by the fact that he is sometimes asked to serve on appeals committees. In these committees [the Petitioner] judges the actions of his competitors and the Tournament Director's Ruling. As part of this committee he uses his expert opinion to decide whether to uphold the table ruling or overturn it.

Moreover, in response to the Director's request for evidence, the Petitioner submitted a letter from [REDACTED] that explained the role of individuals on appeals committees, but did not indicate that the Petitioner ever served on the committees. Furthermore, the Petitioner asserted that “[t]here are no official records of [him] acting as a member of an Appeals Committee.” In addition, he averred that “members' names are not published, nor are they showcased in any way.” Without further information or documentation to support the above statements, we find the submitted testimonial evidence insufficient to establish the Petitioner's participation as a judge of others in his field. Accordingly, we withdraw the Director's finding for this criterion.

### III. CONCLUSION

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. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the level of expertise required for the classification sought. For the

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foregoing reasons, the Petitioner has not shown that he qualifies for classification as an individual of extraordinary ability.

**ORDER:** The appeal is dismissed.

Cite as *Matter of S-H-*, ID# 982973 (AAO Feb. 12, 2018)