



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

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

MATTER OF J-A-G-Q-

DATE: FEB. 27, 2018

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, a table tennis 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 Texas Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Petitioner had satisfied only one of the ten initial evidentiary criteria of which he must meet at least three. In addition, the Director dismissed a subsequent motion.

On appeal, the Petitioner contends that the Director reached an incorrect conclusion and that he meets at least three of the ten criteria.

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

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to 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). Alternatively, he or she must provide documentation that meets at least three of the ten categories of evidence listed at 8 C.F.R. § 204.5(h)(3)(i)-(x) (including items such as awards, memberships, and published material in certain media). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if he or she is able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to his or her occupation.

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

As the Petitioner 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 met only the awards criterion at 8 C.F.R. § 204.5(h)(3)(i). The Director determined that the Petitioner did not meet the following claimed criteria: published material, original contributions of major significance, and leading or critical role for distinguished organizations.¹ On appeal, the Petitioner does not contest the Director’s findings under any of the aforementioned criteria. Rather, he states that Director reached an incorrect conclusion regarding this petition and that he believes our review of the matter “will lead to a different and positive decision.”² For the reasons discussed below, the record does not support a finding that the Petitioner satisfies at least three criteria.

¹ See 8 C.F.R. § 204.5(h)(3)(iii), (v), and (viii), respectively.

² In addition, the Petitioner states: “Should this Petition be denied [he] will suffer extreme hardship and be forced to return to a home country where he is at serious risk of physical harm.” The scope of our review in this matter, however, relates to whether the Petitioner qualifies for classification as an individual of extraordinary ability.

A. Evidentiary Criteria³

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 found that that the Petitioner had demonstrated his receipt of nationally or internationally recognized prizes or awards for excellence in table tennis. For the reasons outlined below, we find that the Petitioner has not submitted sufficient documentary evidence showing that he meets the plain language of this criterion. Accordingly, the Director's determination on this issue will be withdrawn.

As evidence under this criterion, the Petitioner submitted photographs of various trophies and medals, event participation badges, identification tags with his player number, and table tennis player rankings for El Salvador.⁴ In addition, he provided multiple statements from [REDACTED] an international coach with the [REDACTED] describing competitions in which the Petitioner participated such as the [REDACTED] the [REDACTED] the [REDACTED] and the [REDACTED]. In addition, [REDACTED] statements discuss various competitions and tournaments in which the Petitioner received trophies or medals. For example, [REDACTED] indicates in separate statements that the Petitioner won first place at the [REDACTED] the [REDACTED] and the [REDACTED]. While [REDACTED] offers a brief description of the aforementioned tournaments, his assertions alone are insufficient to demonstrate that the Petitioner's trophies and medals are "nationally or internationally recognized" prizes or awards for excellence in the field. The Petitioner has not established therefore that he 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 an [REDACTED] 2004 article in [REDACTED] entitled "[REDACTED]" but its author was not identified as required under this criterion. Nor is this article about the Petitioner. For example, the article notes that "[f]our [REDACTED] table tennis champions were crowned at the national level." The Petitioner, however, was not among the four champions listed and the article does not mention him by name. In addition, the record does not show that [REDACTED] qualifies as professional or trade publication, or a form of major media. A webpage from this

³ We have reviewed all of the evidence the Petitioner has submitted and will address those criteria he asserts that he meets or for which he has submitted relevant evidence.

⁴ The highest ranking achieved by the Petitioner was [REDACTED] in 2006.

⁵ [REDACTED] does not state, nor does the record demonstrate, that the Petitioner received awards at these competitions.

publication asserts that [REDACTED] is leading paper in [REDACTED] . . . El Salvador,” but does not provide its circulation or online readership numbers, nor does the record include comparative circulation statistics. USCIS need not rely on the self-promotional material of the publisher. *See Braga v. Poulos*, No. CV 06 5105 SJO, *aff’d* 317 Fed. Appx. 680 (C.A.9). For the above reasons, the Petitioner has not established that he meets this 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 for this criterion, the Petitioner submitted photographs of his trophies and medals. The regulations include a separate criterion for awards discussed above. Consistent with the regulatory requirement that a petitioner meet at least three separate criteria, we will generally not consider evidence relating to the awards criterion to satisfy this one. Nonetheless, the record does not establish that the Petitioner’s trophies and medals were indicative of his original contributions of major significance in the field. For instance, the evidence does not indicate that his awards recognized an original achievement in his sport that the record shows constitutes a contribution of major significance in table tennis.

As another form of evidence under this criterion, the Petitioner provided recommendation letters from others in his sport discussing his playing skills and sportsmanship.⁶ For example, [REDACTED] a judge and referee for the [REDACTED] states that the Petitioner “stood out as one of the best athletes of his group” and showed respect, empathy, good interpersonal relationships, and teamwork. In addition, [REDACTED] a player who trained with the Petitioner, asserts that he “competed and traveled in different delegations of the [REDACTED] and was a good friend, sportsman, and responsible athlete. The record, however, does not indicate that the Petitioner’s methods of play have affected others in his sport, that he introduced techniques that have been widely utilized, or that his work otherwise represents an original contribution of major significance in the field. Without sufficient evidence demonstrating that his table tennis accomplishments constitute original contributions of major significance in his sport, the Petitioner has not established 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 record contains reference letters and rankings indicating that the Petitioner competed for the [REDACTED]. In general, a leading role is evidenced from the role itself, while a critical role is one in which an individual was responsible for the success or standing of the organization. The Petitioner did not provide evidence to establish where his role fit within the overall hierarchy of [REDACTED]. The submitted documentation does not differentiate the Petitioner from the other players and coaches so as to demonstrate his leading role, and does not establish that his level of play contributed to the organization in a way that was of substantial importance to its success or

⁶ While we discuss only a sample of the letters, we have reviewed and considered each one.

standing. Furthermore, the record does not include sufficient documentary evidence showing that [REDACTED] has a distinguished reputation relative to other table tennis associations. For these reasons, the Petitioner has not established that he meets this regulatory criterion.

B. Continuing Work in the Area of Expertise

As the Petitioner has not established his extraordinary ability under section 203(b)(1)(A)(i) of the Act, we need not determine whether he is coming to “continue work in the area of extraordinary ability” under section 203(b)(1)(A)(ii). We note, however, that the record does not include documentation of the Petitioner’s plans for future work in the United States. *Id.*⁷

III. CONCLUSION

The Petitioner is not eligible because he has not submitted the required initial evidence of either a qualifying 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). Thus, we do not need to fully address the totality of the materials in a final merits determination. *Kazarian*, 596 F.3d at 119-20. 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. Further, the Petitioner has not demonstrated that he will continue to work in his area of expertise in the United States.

ORDER: The appeal is dismissed.

Cite as *Matter of J-A-G-Q-*, ID# 943576 (AAO Feb. 27, 2018)

⁷ See also 8 C.F.R. § 204.5(h)(5), which provides that “the petition must be accompanied by clear evidence that the alien is coming to the United States to continue work in the area of expertise,” and that “[s]uch evidence may include letter(s) from prospective employer(s), evidence of prearranged commitments such as contracts, or a statement from the beneficiary detailing plans on how he or she intends to continue his or her work in the United States.”