



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

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

MATTER OF R-S-F-

DATE: FEB. 27, 2018

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, an ultramarathon runner, 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 one of the initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner presents previously submitted 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 an ultramarathon runner who has competed in races in the United States. 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 met only one of the initial evidentiary criteria, awards under 8 C.F.R. § 204.5(h)(3)(i).

On appeal, the Petitioner maintains that he meets five additional criteria, discussed below. 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.

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 placed first in the male category at the 2014 [REDACTED]. Accordingly, the Petitioner demonstrated that he satisfies this criterion, and we concur with the Director’s findings for 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 that he meets this criterion based on membership with the [REDACTED] and the [REDACTED]. The record contains a letter from [REDACTED] campaign manager, who confirmed that the Petitioner participated at the 2010 [REDACTED] as part of the [REDACTED], the flagship fundraising program for [REDACTED]. Further, the Petitioner presented screenshots from [REDACTED] website soliciting that “[i]t doesn’t matter if you’re an athlete or not in perfect shape” and “[y]ou don’t have to finish first, you’re already a winner by helping [REDACTED] and [REDACTED] to save lives not someday, but today.” In addition, the Petitioner submitted a letter from [REDACTED] founder of [REDACTED] who explained that he started [REDACTED] to educate the public about ultrarunning, provided a general overview of ultramarathon running, and indicated the Petitioner’s participation in ultramarathon events.

While [REDACTED] stated that the Petitioner was part of [REDACTED] did not indicate that the Petitioner was a member of [REDACTED] consistent with the plain language of the criterion. Regardless, in order to fulfill this criterion, a petitioner must document membership in associations that require outstanding achievements, as judged by recognized national or international experts. Here, the evidence does not indicate the requirements for membership and demonstrate that they necessitate outstanding achievements. In addition, the documentation does not show that membership is judged by recognized national or international experts. For these reasons, the Petitioner did not establish that he satisfies 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 he provided “[r]ace reports and results in premier magazines for competitive running, [REDACTED] and [REDACTED] magazine.” The record contains screenshots from various websites, such as [REDACTED] and [REDACTED] which list the Petitioner as a competitor along with all of the other participants and their finishes. However, articles that simply mention or list the Petitioner as one of the runners in a competition without a discussion regarding him and his work in the field do not constitute published material about him. Furthermore, the Petitioner did not demonstrate that the websites are professional or major trade publications or other major media.

In addition, the Petitioner submitted a screenshot from [REDACTED] entitled, “[REDACTED] [REDACTED] While the Petitioner is quoted along with several other runners, the article is about how a Florida race began with 100 runners skydiving out of a plane. 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). Further, the Petitioner did not demonstrate that runnersworld.com is a professional or major trade publication or other major medium. For these reasons, the Petitioner did not establish 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).

In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish not only that he has made original contributions but that they have been of major significance in the field. For example, a petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field. The Petitioner argues that his “ [redacted] fundraising and running, placing and winning top tier races in the field of ultramarathon running” meets this criterion.

As discussed under the membership criterion, the Petitioner participated with [redacted] in 2010 to fundraise for [redacted]. In addition, the Petitioner provided screenshots regarding [redacted] intention to fundraise for [redacted] at the 2017 [redacted]. Because the Petitioner is seeking classification as an individual of extraordinary ability as an ultramarathon runner, he must establish that he has made original contributions of major significance in his field. Here, the Petitioner did not show how his fundraising in 2010 for [redacted] is an original contribution of major significance to the field of ultramarathon running. The Petitioner, for instance, did not demonstrate that his fundraising significantly influenced the general field of ultramarathon running.

Regarding his competition in races, the Petitioner placed first in the male category at the 2014 [redacted] [redacted] as discussed under the awards criterion. Moreover, the Petitioner offered a screenshot reflecting that in 2014 he was ranked first among Filipino ultramarathon runners, but there was only one other Filipino runner. In addition, the Petitioner presented screenshots showing that he participated in 19 events from 2011 – 2015, during which he placed in the top ten among males only one other time: eighth place at the 2012 [redacted]. Further, the Petitioner submitted a screenshot from [redacted] indicating that his grand total from five races placed him sixth out of eight runners for the 2014 [redacted]. The Petitioner, however, did not demonstrate how these personal achievements are considered contributions of major significance to the field at large. *See Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding a finding that a ballroom dancer had not met this criterion because she did not corroborate her impact in the field as a whole). The Petitioner, for example, did not establish how his accomplishments have greatly impacted the ultramarathon field.

Similarly, the record contains reference letters from fellow ultramarathon runners and race directors who praise the Petitioner for his athletic ability. For example, [redacted] stated that the Petitioner “has no ego,” “has a nose for the finish line,” and has a “positive attitude.” Further, [redacted] described the Petitioner as “one of the most positive, compassionate, determined, humble, and hardworking athletes I had the privilege of meeting.” In addition, [redacted] indicated that the

Petitioner “is a natural ultrarunner, extremely well-trained and intelligent yet fearless.” Although the letters praise the Petitioner for his skills and work ethic, they do not explain how he has made original contributions of major significance in the field. Having a diverse skill set is not a contribution of major significance in and of itself. Rather, the record must be supported by evidence that the Petitioner has already used those unique skills to impact the field at a significant level.

The letters considered above primarily contain attestations of the Petitioner’s status in the field without providing specific examples of how his contributions rise to a level consistent with major significance. Letters that repeat the regulatory language but do not explain how an individual’s contributions have already influenced the field are insufficient to establish original contributions of major significance in the field. *Kazarian*, 580 F.3d at 1036, *aff’d in part* 596 F.3d at 1115, 1122. Moreover, USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att’y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990). For these reasons, the Petitioner did not demonstrate that he meets this criterion.

Evidence of the display of the alien’s work in the field at artistic exhibitions or showcases. 8 C.F.R. § 204.5(h)(3)(vii).

The Petitioner claims to fulfill this criterion based on “running, placing and winning” ultramarathon races. In order to demonstrate eligibility for this criterion, the Petitioner must show that his work was on display, and the venues were artistic exhibitions or showcases.¹ Here, the Petitioner has not shown that the races or events constituted artistic venues that displayed his work. Accordingly, the Petitioner did not establish 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).

In general, a leading role is evidenced from the role itself, and a critical role is one in which a petitioner was responsible for the success or standing of the organization or establishment. The Petitioner contends that his fundraising for [REDACTED] and running for [REDACTED] demonstrates his eligibility for this criterion. Regarding [REDACTED] while [REDACTED] stated that the Petitioner participated in fundraising in 2010 as part of [REDACTED] she did not indicate that he held a leadership position with [REDACTED] or [REDACTED]. Furthermore, [REDACTED] letter does not reflect that the Petitioner performed in essential critical role for [REDACTED] or [REDACTED]. She did not, for example, show that the Petitioner’s role was of significant importance to the outcome of [REDACTED] successful fundraising or [REDACTED] activities.²

¹ See USCIS Policy Memorandum PM-602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions: Revisions to the Adjudicator’s Field Manual (AFM) Chapter 22.2, AFM Update AD11-149* (Dec. 22, 2010), <https://www.uscis.gov/sites/default/files/ocomm/ilink/0-0-0-6423.html>.

² *Id.* at 10.

As it relates to ██████████ did not identify the Petitioner's affiliation, if any, with ██████. In addition, the Petitioner did not indicate what role, if any, he performed for ██████ besides running in ultramarathon races. The record does not demonstrate that the Petitioner held a prominent position or that he was critical to the outcome of ██████ activities. Moreover, the Petitioner did not establish the ██████ enjoys a distinguished reputation. For these reasons, the Petitioner did not show that he meets 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 1119-20.³ 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 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 R-S-F-*, ID# 925440 (AAO Feb. 27, 2018)

³ In addition, we do not need to determine whether the Petitioner intends to continue to work in the United States in his area of expertise. See section 203(b)(1)(A)(iii) of the INA and 8 C.F.R. § 204.5(h)(5).