



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

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

MATTER OF I-T-

DATE: JAN. 24, 2018

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a weightlifter, 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 two of the initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner provides documentation and a brief, stating that he meets 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 full-time athlete in the sport of [REDACTED] weightlifting. He is currently enrolled in the [REDACTED]. 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 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 two criteria: prizes or 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 three additional criteria: memberships under 8 C.F.R. § 204.5(h)(3)(ii), published material under 8 C.F.R. § 204.5(h)(3)(iii), and original contributions criterion under 8 C.F.R. § 204.5(h)(3)(v). We have reviewed all of the evidence in the record and conclude 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 record indicates that the Petitioner received several nationally recognized awards for weightlifting including winning first place in the [REDACTED]. Accordingly,

we agree with the Director's determination, and the Petitioner demonstrated 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).

On appeal, the Petitioner contends that he meets this criterion based on his membership with the [REDACTED] team, and by obtaining a vocational diploma in weightlifting from the [REDACTED]

The record contains a letter from [REDACTED] the general secretary of the [REDACTED] confirmed that the Petitioner has been a member since 2009 and stated that the [REDACTED] "requires outstanding achievements of its members, as judged by national and internationally recognized experts in the field of [REDACTED] weightlifting." [REDACTED] does not define what outstanding achievements are required of its members, or explain in any detail how the federation will determine if an individual is an outstanding weightlifter. Repeating the language of the statute or regulations does not satisfy the petitioner's burden of proof. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F.2d 41 (2d. Cir. 1990); *Ayvr Associates, Inc. v. Meissner*, 1997 WL 188942 at *5 (S.D.N.Y.).

In his letter, [REDACTED] explained that "we are unable to provide copies of the team's rules or organizational documents as these are not open to the public according to Georgian law." However, the Petitioner did not submit supporting evidence demonstrating that Georgian law that precludes showing the [REDACTED] organizational documents, or further information as to why the organization could not share documents such as the organization's bylaws or constitution. In addition to lacking evidence regarding [REDACTED] membership requirements, the record lacks sufficient information on the individuals that choose the members and whether they are national or international experts in their disciplines or fields.

Regarding the Petitioner's claim that he meets the membership criterion through obtaining a vocational diploma in weightlifting from the [REDACTED] this entity is an academic institution where he was enrolled as a student rather than an association in which he was a member. He did not indicate or demonstrate that he acquired "membership" with the state college based on his outstanding achievements, as judged by recognized national or international experts. For these reasons, the Petitioner does not meet 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 met this criterion based on the information provided in a letter from the [REDACTED]. Upon review of the documentation, we disagree with the Director and withdraw her finding on this issue.

The Petitioner submitted a letter from [REDACTED] general secretary of [REDACTED] that provides a list of events at which the Petitioner acted as a chief or side referee. However, the letter does not describe the duties of a referee to demonstrate whether they involve judging the work or skills of competitors as opposed to enforcing the rules of a match and ensuring sportsmanlike competition. The record lacks other evidence, such as official competition rules for the tournaments listed in the [REDACTED] letter, showing that serving as a “referee” in this instance equates to participating as a “judge” of the work of others.

Without further evidence that the Petitioner’s refereeing duties involved judging the work of others, such as awarding points or choosing the ultimate winner, he has not met 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 submits newspaper articles regarding his accomplishments in weightlifting. The newspaper articles constitute published material about him relating to his work. However, he did not offer sufficient evidence to establish that the newspapers are considered major media. For example, some of the articles were published in [REDACTED] which according to the submitted media kit, has a circulation of 2000-2500 copies distributed throughout Georgia. Another published article was in the [REDACTED] that has a circulation of 3000 copies throughout Georgia. On appeal, the Petitioner contends that Georgia has a population of almost 4 million so the circulation numbers of [REDACTED] and the [REDACTED] signify major media. However, he did not provide sufficient supporting documentation, such as circulation statistics for other publications in Georgia, to support his assertion. Therefore, 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).

On appeal, the Petitioner contends that his activities have been “recognized as a contribution of major significance to the field by champions and leading experts in the sport of weightlifting.” He submits recommendation letters to demonstrate his eligibility for this criterion. In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has he 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.

Upon review of the letters, they generally praise the Petitioner's weightlifting skills and refer to his awards that he has received in his weightlifting career.¹ For example, a letter from [REDACTED] president of [REDACTED] stated that the Petitioner is "very talented and [REDACTED] weightlifter from Georgia." He goes on to state that he received national and international recognition in 2007 when he won a silver medal at the [REDACTED] in [REDACTED] weightlifting. In addition, a letter from [REDACTED] a coach at [REDACTED] wrote that the Petitioner has "demonstrated the very highest achievements in the field of [REDACTED] weightlifting and made a contribution of major significance." Although both authors indicate that the Petitioner is a great athlete, they did not indicate a contribution he made to the field outside of winning awards. The fact that he has obtained prestigious awards is not sufficient evidence to demonstrate an original contribution of significance in the field.²

The record also contains a letter from [REDACTED] leading coach of the [REDACTED]. He states that the Petitioner has "undoubtedly risen to a level above nearly all others in the field of weightlifting, as demonstrated by his consistent track record winning top competitions in weightlifting." He also provides a summary of the Petitioner's awards and states that "I am positive that [the Petitioner's] athletic achievements represent a significant contribution to the field of weightlifting due to his particular system and techniques, which allowed him to compete successfully as a professional weightlifter." However, [REDACTED] does not provide additional information regarding the Petitioner's system and techniques to explain their originality or how they have been of major significance in the field.

Having the athletic skill is not in-and-of-itself a contribution of major significance, unless a petitioner shows that he has used those skills to impact or influence the field; in this case, the Petitioner has not made such a showing. While several of the Petitioner's recommendations include the terms "contributions" and "major significance," letters that repeat the regulatory language but do not explain how a petitioner's contributions have 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. The letters considered above primarily contain attestations of the Petitioner's status in the field without providing specific examples of contributions he has made that rise to a level consistent with major significance in the field. 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). Without supporting evidence, the Petitioner has not met his burden of showing that he has made original contributions of major significance in the field.

¹ While we discuss only a sampling of these letters, we have reviewed and considered each letter present in the record.

² We note that the regulations include a separate criterion for awards, 8 C.F.R. § 204.5(h)(3)(i), 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.

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 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 I-T-*, ID# 838172 (AAO Jan. 24, 2018)