



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

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

MATTER OF D-B-

DATE: MAY 29, 2018

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a freestyle wrestler and coach, seeks classification as an alien 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 petition, concluding that the record did not establish, as required, that the Petitioner had a one-time achievement or met at least three of the ten evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). In addition, the Director found that the record did not establish that the Petitioner would continue to work in his field, or that the Petitioner would provide a substantial prospective benefit to the U.S.

On appeal, the Petitioner submits additional evidence and asserts that he meets seven of the ten evidentiary criteria, and that a job offer letter as a wrestling coach shows that he will continue to work in his field in the U.S.

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 a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of his or her achievements in the field through 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 sufficient qualifying 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).

Satisfaction of at least three criteria, however, 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 is a wrestler and coach. As the Petitioner has not 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). The Director held that the Petitioner had not satisfied any of these criteria. On appeal, the Petitioner asserts that he meets seven of the criteria, which will be fully analyzed in the section below. He also asserts that the job offer letter he submitted establishes that he will continue to work in his field in the United States. For the reasons discussed below, the Petitioner has not established that he satisfies at least three of the evidentiary criteria.¹

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).

¹ Because the Petitioner has not established that he satisfies at least three of the evidentiary criteria, we need not address the evidence of his intent to continue to work in his field or his prospective benefit to the United States.

The record establishes that, among other awards received as a “junior” or “cadet” wrestler, the Petitioner won first place in the [REDACTED] (60 kg) in 2011, first place in the [REDACTED] (66 kg) in 2012, second place in the [REDACTED] (66 kg) in 2013, third place in the [REDACTED] in 2015, and second place in the [REDACTED] in 2016. Media articles submitted with the petition indicate that these were national-level competitions that, in some cases, influenced selection for the [REDACTED] national wrestling team. We have also reviewed the translation certifications for these awards and find that they meet the requirements at 8 C.F.R. § 103.2(b)(3). Accordingly, we disagree with the Director and find that the Petitioner has established 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).

The Petitioner has submitted evidence of his membership in the [REDACTED]. In his reference letter, [REDACTED] of the [REDACTED] states that “[I]t is my knowledge as an expert in this field that this organization **requires outstanding achievement of the coaches who become its members...**” (emphasis in original). However, [REDACTED] does not elaborate on the requirements for members of the [REDACTED] and does not explain how he became aware of those requirements. If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for a petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998). A document submitted in support of this statement, the International Federation of Associated Wrestling Styles “Regulations for the Recognition of Regional Associations,” does not address the membership requirements for the [REDACTED]. Additionally, the record lacks evidence demonstrating that recognized experts in the field judge the achievements of prospective members of the [REDACTED]. Therefore, the Petitioner has not met the plain language of this requirement.

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 several media articles, either copies of newspaper articles or printed from websites. While these articles included the required certified translations, none of the newspaper articles included the date of publication or the name of the newspaper, and several others did not identify the author. These articles fail to meet the regulatory requirements for evidence submitted under this criterion.

Additionally, the record does not clearly establish the source of the internet articles submitted, many of which appear to be have been obtained from third-party locations, such as Internet forums, rather than the original creators. The record lacks evidence regarding the circulation or intended readership

of the unknown publications, despite the Director's specific request for that information. Furthermore, the Petitioner provided no new data on this issue on appeal. Without such evidence, the record does not support a finding that the material was published in professional or major trade publications or other major media.

Finally, all of the articles provide coverage of wrestling tournaments in which the Petitioner participated. Many only list his name and placing in the particular tournament, while others tangentially discuss noteworthy matches and competitors, including the Petitioner. None of these articles can be said to be about the Petitioner, as they are about the tournament results of several wrestlers and, in some cases, the prospects for the Georgian wrestling team as a whole. *See Noroozi v. Napolitano*, 905 F. Supp.2d 535, 545 (S.D.N.Y. 2012) (concurring with USCIS's determination that articles about a team that only briefly mentioned a petitioner did not satisfy this criterion). Accordingly, the submitted evidence does not meet the requirements of 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 Petitioner has submitted an identification card issued by [REDACTED] which indicates that he is an International Referee. On appeal, the Petitioner again refers to [REDACTED] letter, in which he states that the Petitioner has been a referee for the [REDACTED] and in turn refers to a letter from [REDACTED] President of the [REDACTED] dated October 17, 2016. However, [REDACTED] letter makes no mention of the Petitioner having served as a referee, and does not support this claim. Furthermore, the record lacks evidence describing how the duties of a referee would qualify under this criterion.

In addition, the Petitioner points to a certificate he received after completing a one-week [REDACTED] [REDACTED] under the auspices of [REDACTED]. The Petitioner does not elaborate on why earning this certificate establishes his eligibility under this regulation. Based upon all of these issues, we find that the Petitioner has not met the requirements of 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 refers to an undated letter signed by [REDACTED] owner of [REDACTED] indicates that the Petitioner works as a volunteer coach to children at his wrestling club, and employs a unique coaching technique based upon a Georgian wrestling style known as *chidoaba*. However, this evidence does not support a finding that the Petitioner has made an original contribution to the field of wrestling by using a coaching technique that is based upon a well-established style of Georgian wrestling. More importantly, the record lacks evidence to support a finding that this contribution is one of major significance, since there is no

indication that this coaching technique has had an impact beyond the students coached by the Petitioner. Accordingly, the Petitioner has not met 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, in his appeal brief, refers generally to the letters submitted by his fellow wrestlers, coaches, and other wrestling experts to support his claim under this criterion. Neither the brief nor the letters demonstrate that the Petitioner's wrestling matches are artistic exhibitions or showcases. Therefore, the Petitioner has not satisfied the requirements of 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)

A leading role should be apparent by its position in the overall organizational hierarchy and through the role's matching duties. A critical role should be apparent from the Petitioner's impact on the organization or the establishment's activities. The Petitioner's performance in this role should establish whether the role was critical for the organization or establishment as a whole.

On appeal, the Petitioner bases his claim to this criterion upon his role as a coach and referee for the [REDACTED]. As explained above, while the evidence confirms the Petitioner's qualification as a referee, the record does not demonstrate that he has performed as a referee for the [REDACTED]. Nor does it explain how his referee work would have constituted a leading or critical role for the organization.

Furthermore, the Petitioner has not established that he served as a coach for the [REDACTED] in an official capacity. An undated letter from [REDACTED] the organization's president, does not identify the Petitioner's job title or dates of employment, but states that he "is very devoted to his job," "made a great contribution in the development of our children," and it identifies twelve children trained by him who "achieved the certain success." The letter does not provide specific information about his role or the impact his work had for the organization.

In addition, several letters initially submitted with the petition describe the Petitioner's role differently. [REDACTED] who describes himself as the "youth team coach of Georgia," states that the Petitioner served as a consultant, but also does not provide details as to his duties or the period he served in this role. [REDACTED] states that the Petitioner was his "coach and sparring partner" during training for the 2015 [REDACTED]. While the evidence suggests that the Petitioner played some role for the [REDACTED] it does not establish the exact nature of that role or the impact that it had on the organization. The Petitioner must resolve this ambiguity in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Here, he has not done so. Nor has he submitted evidence to establish that the [REDACTED] has a distinguished reputation. Therefore, the record not support a finding that the Petitioner's role was either leading or critical.

III. CONCLUSION

The Petitioner has not submitted the required initial evidence that he received a major, internationally recognized award 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 D-B-*, ID# 940124 (AAO May 29, 2018)