



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

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

MATTER OF M-A-

DATE: SEPT. 18, 2018

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a wrestler, 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 ten initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner offers a brief, contending that he received major awards and meets at least three criteria 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). 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). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable material if it is able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to a beneficiary's 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

The Petitioner is a wrestler who has competed in national and international tournaments. On appeal, the Petitioner maintains that he won major, internationally recognized awards under 8 C.F.R. § 204.5(h)(3) and that he also satisfies five of the alternate regulatory 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, lesser awards under 8 C.F.R. § 204.5(h)(3)(i). The record contains evidence that the Petitioner received lesser nationally and internationally recognized awards for excellence at wrestling tournaments and championships. Accordingly, we agree with the Director that the Petitioner met the lesser awards criterion. We have, however, reviewed all of the evidence in the record and conclude that it does not support a finding that the Petitioner has received one-time achievements or fulfills the plain language requirements of at least three criteria.

### A. One-Time Achievement

Given Congress' intent to restrict this category to “that small percentage of individuals who have risen to the very top of their field of endeavor,” the regulation permitting eligibility based on a one-time achievement must be interpreted very narrowly, with only a small handful of awards qualifying as major, internationally recognized awards. *See* H.R. Rep. 101-723, 59 (Sept. 19, 1990), *reprinted in* 1990 U.S.C.C.A.N. 6710, 1990 WL 200418 at \*6739. The House Report specifically cited to the Nobel Prize as an example of a one-time achievement; other examples which enjoy major,

international recognition may include the Pulitzer Prize, the Academy Award, and an Olympic Medal. The regulation is consistent with this legislative history, stating that a one-time achievement must be a *major, internationally recognized* award. 8 C.F.R. § 204.5(h)(3). The selection of Nobel Laureates, the example provided by Congress, is reported in the top media internationally regardless of the nationality of the awardees, reflects a familiar name to the public at large, and includes a large cash prize. While an internationally recognized award could conceivably constitute a one-time achievement without meeting all of those elements, it is clear from the example provided by Congress that the award must be global in scope and internationally recognized in the field as one of the top awards.

The Petitioner argues on appeal that his medals at the [redacted] and third place finishes at the [redacted] constitute one-time achievements. Specifically, he contends that the [redacted] “are clearly ‘global in scope’ and sanctioned by the [redacted] which encompasses the sport’s major governing bodies [redacted] and [redacted].”

Moreover, the Petitioner claims that “winning a continental championship is undoubtedly a ‘top award,’” and “[a] similar analysis can be applied to [his] third place finishes in the [redacted] which, again, were ‘global in scope’ and at which he received ‘one of the top awards.’”

Here, the Petitioner did not substantiate his arguments with independent evidence. Specifically, the Petitioner did not show that the [redacted] and [redacted] are “global in scope,” and that winning a continental championship or finishing third at the [redacted] is “one of the top awards.” Moreover, the regulation at 8 C.F.R. § 204.5(h)(3) requires the one-time achievement to be “a major, international[ly] recognized award.” He did not present evidence, for example, establishing that the competitions or awards are widely reported by international media, are recognized by the general public, or garner attention comparable to other major, globally recognized awards such as Olympic medal winners. Accordingly, the Petitioner has not demonstrated that he meets the requirements of a one-time achievement.

#### B. Evidentiary Criteria

*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 contends for the first time on appeal that he satisfies this criterion based on his membership with “Ukrainian national wrestling team for several years, at which he has represented his country as its best wrestler in his weight class at numerous international competitions.” The Petitioner references recommendation letters from [redacted] personal coach for the Petitioner, and [redacted] head coach of the [redacted] [redacted] as well as a screenshot from wrestling.com. In order to meet this criterion, the

Petitioner must show that membership in the association is based on being judged by recognized national or international experts as having outstanding achievements in the field for which classification is sought.<sup>1</sup>

Although [REDACTED] and [REDACTED] praise the Petitioner for his wrestling experience and state that he “has been the best wrestler in the Ukraine in his weight category” and “[f]or a period of six years he was [in] first place at all the championships while he had the strongest athletes in his weight class in Ukraine,” they do not indicate that outstanding achievements, as judged by recognized national or international experts, are required for membership with the Ukrainian national wrestling team. Similarly, while the screenshot reflects an interview with an unidentified coach, it mentions that the Petitioner finished in third place at a Polish wrestling tournament without showing the membership requirements for the Ukrainian national wrestling team. Here, the Petitioner did not provide evidence documenting that the Ukrainian national team requires outstanding achievements, as judged by recognized national or international experts consistent with the regulation at C.F.R. § 204.5(h)(3)(ii). For these reasons, the Petitioner did not show that he meets 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 claims that he “submitted 10 different articles,” which qualify under this criterion. The record, however, does not reflect that he provided published material about him in professional or major trade publications or other major media, which included the title, date, and author.<sup>2</sup> With the exception of two articles and two screenshots, the remaining six screenshots from various websites, such as *wrestlinglua.com*, *profc.com*, and *freewrestling.ru*, reflect coverage of wrestling tournaments where the Petitioner is simply mentioned or listed as a competitor. These screenshots are about wrestling tournaments rather than about the Petitioner. 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). We also note that none of these six screenshots includes the “author of the material,” as required by the regulation at 8 C.F.R. § 204.5(h)(3)(iii).

Furthermore, as mentioned above, the Petitioner provided two articles from *Touche (Tushe)* and screenshots from two websites, *glavred.info* and *ukrwrestling.com*, reflecting published material about him. However, only one article from *Touche* includes the author, as required by the

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<sup>1</sup> 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 AD11-14 6* (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html>.

<sup>2</sup> See also USCIS Policy Memorandum PM 602-0005.1, *supra*, at 7.

regulation.<sup>3</sup> Moreover, regarding *Touche*, the record contains a 2010 screenshot from fightzone.in.ua indicating that the magazine was “released in a circulation of 1,000 copies.” The Petitioner, however, did not establish that such circulation statistics are representative of a major medium. As it relates to glavredinfo.com, the Petitioner offered screenshots from similarweb.com and stats.webmaster.net reflecting that the website is globally ranked at 60,628 and 59,115, respectively. Again, the Petitioner did not demonstrate that such Internet viewing statistics reflect status as a major medium.<sup>4</sup> We note that the Petitioner did not present evidence of ukrwrestling.com as a major medium.

For these reasons, the Petitioner has not met his burden in demonstrating that he meets 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 record contains a “Certificate” from [REDACTED] president of the [REDACTED] [REDACTED] reflecting that the Petitioner “has been a Referee” at five wrestling competitions. In response to a request for evidence, the Petitioner provided another letter from [REDACTED] who claimed that “the concepts of the **referee** and the **judge** have the same meaning” (emphasis in original). Further, the Petitioner submitted his credential as a “National Category Judge.”

This regulatory criterion requires a petitioner to show that he has acted as the judge of the work of others in the same or an allied field of specialization.<sup>5</sup> [REDACTED] letter does not describe the duties of a wrestling referee/judge to demonstrate whether they involve evaluating or judging the work or skills of competitors as opposed to enforcing the rules of a match and ensuring sportsmanlike competition. Moreover, the record lacks other evidence, such as official competition rules for referees, bylaws of the [REDACTED] relating to judges, or the duties and responsibilities of credential holders, showing that serving as a “referee” in this instance equates to participating as a “judge” of the work of others. Without further documentation, evidence regarding officiating at a match is insufficient to meet this criterion. For these reasons, the Petitioner did not establish that he satisfies this criterion.

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<sup>3</sup> *Id.*

<sup>4</sup> We note that the Petitioner submitted screenshots from similarweb.com regarding the other websites that do not reflect published material about him and do not contain the author, and the Petitioner did not establish that the Internet viewing statistics for the websites reflect major media.

<sup>5</sup> See USCIS Policy Memorandum PM-602-0005.1, *supra*, at 8.

*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 Petitioner contends that “he has been described by his national team coaches as the Ukraine’s best wrestler of the past decade.” Moreover, he argues that he “was the sole representative of the team in his weight category in international competitions evidencing his critical and leading role for the team in being the sole representative in this capacity.” If a leading role, then evidence must establish that a petitioner is or was a leader. A title, with appropriate matching duties, can help to establish if a role is or was, in fact, leading.<sup>6</sup> Regarding a critical role, the evidence must demonstrate that a petitioner has contributed in a way that is of significant importance to the outcome of the organization or establishment’s activities. It is not the title of a petitioner’s role, but rather the performance in the role that determines whether the role is or was critical.<sup>7</sup>

The Petitioner references the recommendation letters from [REDACTED] and [REDACTED] and the screenshot from wrestling.com discussed under the membership criterion. Further, he submitted screenshots from ukrwrestling.com reflecting the composition of the Ukrainian national team at the [REDACTED] and [REDACTED]. Moreover, the Petitioner claims that the two articles from *Touche* “on the premiere release of the magazine evidence his leading role on the team.” Although the documentation shows his membership with the Ukrainian national team, it does not demonstrate that he performed in a leading or critical role. Here, the Petitioner did not establish that his role differentiated from the other wrestlers on the team. In addition, the magazine articles make no mention of his role on the national team or otherwise indicate that his role was leading or critical to the overall team. While the Petitioner won wrestling matches, he did not demonstrate that he contributed in an important way to the team’s overall success or standing.

We note that the Petitioner also provided a screenshot from profc.com for the 2015 [REDACTED] [REDACTED] in [REDACTED] Nevada and asserts that he “was the single representative from the [REDACTED] team.” The screenshot, however, does not support his assertion as it lists other Ukrainian wrestlers competing at the championships. Regardless, the Petitioner did not demonstrate that competing at a single event establishes a leading or critical role to the national team as a whole.

Finally, the regulation at 8 C.F.R. § 204.5(h)(3)(viii) requires the organization or establishment to have a distinguished reputation.<sup>8</sup> The Petitioner argues that he provided screenshots from the United World Wrestling database “which showed that the Ukrainian wrestling team was the top ranked team internationally in freestyling.” However, the submitted screenshots rank individual wrestlers without any mention of the Ukrainian national team’s overall ranking. In addition, the Petitioner references another screenshot from wrestling.com in which the Ukrainian national team’s coach, [REDACTED] stated that in the 2013 [REDACTED] the team finished third. Although screenshot shows that the national team received some success at the 2013 [REDACTED]

<sup>6</sup> See USCIS Policy Memorandum PM-602-0005.1, *supra*, at 10.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 10-11.

*Matter of M-A-*

Championships, the Petitioner did not demonstrate the Ukrainian national team has a distinguished reputation within the field.

For these reasons, the Petitioner did not demonstrate 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. 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 acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the “extraordinary ability” standard. *Matter of Price*, 20 I&N Dec. at 954. Here, the Petitioner has not shown that the significance of his athletic accomplishments is indicative of the required sustained national or international acclaim or that it is consistent with a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and he is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

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 M-A-*, ID# 1561631 (AAO Sept. 18, 2018)