



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

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

In Re: 4899729

Date: DEC. 11, 2019

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner, a martial artist, seeks classification as an alien of extraordinary ability. *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 Petitioner did not satisfy any of the initial evidentiary criteria, of which he must meet at least three.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

**I. LAW**

Section 203(b)(1) 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).

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).

## II. ANALYSIS

The Petitioner competed in martial arts events in Uzbekistan, Thailand, and the United States. 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 alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

In denying the petition, the Director determined that the Petitioner did not fulfill any of the initial evidentiary criteria. On appeal, the Petitioner argues that he meets six criteria. After reviewing all of the evidence in the record, we conclude that the record does not support a finding that the Petitioner satisfies the 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)

In order to fulfill this criterion, a petitioner must demonstrate that he received the prizes or awards, and they are nationally or internationally recognized for excellence in the field of endeavor.<sup>1</sup> Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field include, but are not limited to, the criteria used to grant the prizes or awards, the national or international significance of the prizes or awards in the field, and the number of awardees or prize recipients as well as any limitations on competitors.<sup>2</sup>

The Director determined that although the Petitioner provided evidence of his receipt of various martial arts awards, he did not show their national or international recognition for excellence in the field. In addition, the Director indicated that while the Petitioner provided printouts from the websites of the awarding entities, he did not offer independent, corroborating evidence. Moreover, the Director found that additional screenshots from *Wikipedia* lacked probative value.<sup>3</sup> We note that the Director issued a request for evidence (RFE) informing the Petitioner to submit additional documentation to establish that his prizes or awards are nationally or internationally recognized for excellence in 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> *Id.*

<sup>3</sup> *Wikipedia* is an online, open source, collaborative encyclopedia that explicitly states it cannot guarantee the validity of its content. *See General Disclaimer, Wikipedia* (December 10, 2019), [https://en.wikipedia.org/wiki/Wikipedia:General\\_disclaimer](https://en.wikipedia.org/wiki/Wikipedia:General_disclaimer); *Badasa v. Mukasey*, 540 F.3d 909 (8th Cir. 2008).

field, such as the national or international media coverage of the prizes or awards. However, the Petitioner did not present any additional evidence.

On appeal, the Petitioner argues that he “submitted all reasonably available evidence confirming the awards he received are lesser nationally and/or internationally recognized awards.” However, the Petitioner does not identify specifically any erroneous conclusion of law or statement of fact for the appeal. Moreover, the Petitioner did not indicate which evidence confirms his eligibility for this criterion. The Petitioner provided copies of certificates, medals, and photographs without demonstrating the national or international significance of the awards. Furthermore, the Petitioner submitted screenshots from various websites relating to the competitions, including *Wikipedia*, which do not discuss the national or international recognition of the bestowed awards. In the case here, the record does not contain sufficient evidence establishing that his martial arts awards qualify as nationally or internationally recognized awards for excellence in the field consistent with the regulation at 8 C.F.R. § 204.5(h)(3)(i).

Accordingly, the Petitioner did not demonstrate 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).*

In order to satisfy 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>4</sup> The Director concluded that the Petitioner did not provide any evidence to show that his memberships with the Uzbekistan National Combat Aikidjo Team (UNCAT), the Uzbekistan National Martial Arts Team (UNMAT), and the Uzbekistan National Unifight Team (UNUT) require outstanding achievements, as judged by recognized national or international experts. On appeal, the Petitioner contends that he “submitted extensive evidence establishing that he has been a member of [UNCAT], [UNMAT], and [UNUT] and that the above referenced teams require outstanding achievements of their members, as judged by nationally or internationally recognized experts in the respective field.”

Again, the Petitioner does not identify specifically any erroneous conclusion of law or statement of fact for the appeal. Moreover, the Petitioner does not indicate which evidence he previously submitted and how it establishes his eligibility. Furthermore, the record contains letters from other associations claiming that UNCAT, UNMAT, and UNUT require outstanding achievements. For instance, the letter from the International Combat Aikido Association relates to UNCAT, the letter from the Amateur and Professional Kickboxing Federation of Uzbekistan (APKFU) relates to UNMAT, and the letter from the Unifight Federation of Uzbekistan relates to UFU. None of the letters explain how they are aware or know of the membership requirements for the other associations.

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<sup>4</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 6 (providing an example of admission to membership in the National Academy of Sciences as a Foreign Associate that requires individuals to be nominated by an academy member, and membership is ultimately granted based upon recognition of the individual’s distinguished achievements in original research).

Furthermore, the letters repeat the regulatory language but do not elaborate or articulate how memberships require outstanding achievements, as judged by recognized national or international experts. For example, [redacted] [redacted] of APKFU, claimed that the Petitioner’s “outstanding achievements in Marital [sic] Arts, as judged by nationally or internationally recognized experts in the field of Marital [sic] Arts and as confirmed by his major athletic victories that served as the basis for granting him membership [with UNMAT].” While [redacted] asserted that the Petitioner became a member based on his major athletic victories, he did not indicate that UNMAT membership requires major athletic victories. In addition, repeating the language of the statute or regulations does not satisfy the petitioner’s burden of proof. *See 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); *Avyr Associates, Inc. v. Meissner*, 1997 WL 188942 at \*5 (S.D.N.Y.). Moreover, the Petitioner did not provide any supporting evidence, such as the bylaws or membership requirements, from any of the associations to support the broad assertions in the letters. We note that the Director informed the Petitioner in its RFE to submit the section of the associations’ constitution or bylaws discussing the membership qualifications, as well as information to establish that recognized national or international experts review prospective members’ qualifications; however, the Petitioner did not provide any additional evidence.

For the reasons discussed above, 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).*

In order to fulfill this criterion, the Petitioner must demonstrate published material about him in professional or major trade publications or other major media, as well as the title, date, and author of the material.<sup>5</sup> The Petitioner argues that he provided an article from *Mir Novostei* and an article from *Vatanparvar* reflecting published material about him relating to his work in the field.

However, neither article represents published material about him. Specifically, the *Mir Novostei* article shows a report on the participation of representatives from the army club, NHSK, at the [redacted] World Games for Eastern Martial Arts in [redacted] Thailand. Here, the Petitioner is only mentioned one time among the other dozen of competitors named in the article. Furthermore, the *Vatanparvar* article reflects coverage of army fighters competing at the American Open Sambo Championship. In fact, the Petitioner is never mentioned in the article. Articles that are not about a petitioner do not fulfill 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). In addition, the Petitioner did not include the required authors of the articles.

Moreover, the Petitioner did not establish that *Mir Novostei* and *Vatanparvar* represent major media. The record reflects that the Petitioner submitted a “PR & Promotion” screenshot from [mirnov.ru/pr-promotion.html](http://mirnov.ru/pr-promotion.html) that claims the “audience of the newspaper is growing up with the publication.” Similarly, the Petitioner provided a screenshot from *Vatanparvar*’s website indicating the dates of first

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<sup>5</sup> *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 7.

publication, electronic publication, and color publication. However, the Petitioner did not demonstrate how the evidence shows the major medium standing of either newspaper. USCIS need not rely on the self-promotional material of the publisher. *See Braga v. Poulos*, No. CV 06 5105 SJO (C.D. CA July 6, 2007) *aff'd* 2009 WL 604888 (9th Cir. 2009) (concluding that self-serving assertions on the cover a magazine as to the magazine's status is not reliant evidence of a major medium). Further, the Petitioner did not provide the readership or circulation figures of the newspapers.<sup>6</sup> We note that the Director informed the Petitioner in its RFE to submit the circulation data for the publications; however, the Petitioner did not submit any additional evidence.

Accordingly, the Petitioner did not show that he fulfills 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 specialization for which classification is sought.* 8 C.F.R. § 204.5(h)(3)(iv)

This regulatory criterion requires a petitioner to show that he has acted as a judge of the work of others in the same or an allied field of specialization.<sup>7</sup> The Director found that although the Petitioner submitted a certificate showing his qualification to be a judge of national category and a letter from UFU indicating that he was a judge for various tournaments, he did not provide evidence describing the duties of a martial arts judge to demonstrate that he participated as a judge of the work of others consistent with the regulation at 8 C.F.R. § 204.5(h)(3)(iv).

The record reflects that he submitted a letter for [redacted] [redacted] of UFU, who stated that the Petitioner judged 15 championships at the national level from 2013 – 2015. In the Director's RFE, he informed the Petitioner that his evidence did not describe the duties of a judge to show that he participated as a judge of the work of others.

On appeal, the Petitioner contends that he “provided extensive evidence establishing his participations [sic] a judge of the work of others in his field of specialization of specification for which classification is sought.” Once again, the Petitioner does not does not identify specifically any erroneous conclusion of law or statement of fact for the appeal. Moreover, the Petitioner does not indicate the “extensive evidence” and how it shows his eligibility for this criterion.

Furthermore, the Petitioner does not demonstrate that the position of a martial arts judge involves 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 the tournaments, showing that serving as a judge in this instance equates to determining winners rather than administering the rules. Without further documentation, such as evidence that he awarded points or exercised his judgment in choosing the ultimate winner, evidence regarding officiating or refereeing at matches is insufficient to meet this criterion.

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<sup>6</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 7 (indicating that evidence of published material in professional or major trade publications or in other major media publications should establish that the circulation (on-line or in print) is high compared to other circulation statistics).

<sup>7</sup> See USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8.

Accordingly, the Petitioner did not establish that he meets this criterion.

### III. CONCLUSION

We find that the Petitioner does not satisfy any of the criteria regarding to awards, memberships, published material, and judging. Although he claims eligibility for two additional criteria on appeal, relating to original contributions of major significance at 8 C.F.R. § 204.5(h)(3)(v) and leading or critical role at 8 C.F.R. § 204.5(h)(3)(viii), we need not reach these additional grounds. As the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), we reserve these issues.<sup>8</sup> Accordingly, 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. 953, 954 (Assoc. Comm’r 1994). Here, the Petitioner has not shown that the significance of his athletic work 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). Although the Petitioner has competed in martial arts events, the record does not contain sufficient evidence establishing that he is among the upper echelon in his field.

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

**ORDER:** The appeal is dismissed.

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<sup>8</sup> *See INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach).