



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

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

MATTER OF Y-E-A-

DATE: FEB. 26, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a Taekwondo competitor and trainer, 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 the Petitioner had not satisfied any of the ten initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner claims that he meets three criteria. He argues that the Director's decision was erroneous and did not reflect the documentation contained in the record. With his appeal, the Petitioner submits a brief and additional evidence.

Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 203(b) of the Act states in pertinent part:

(1) Priority workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with extraordinary ability. -- An alien is described in this subparagraph 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). Alternatively, he or she must provide documentation that meets at least three of the ten categories of evidence listed at 8 C.F.R. § 204.5(h)(3)(i)-(x) (including items such as awards, memberships, and published material in certain media).

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

At the time of filing, the Petitioner was training at [REDACTED] the master/owner of the martial arts academy, indicated he intends to hire the Petitioner as the head instructor and that his duties will include "teaching and coaching students, ages 4 years and up, the Olympic Sport of Taekwondo."

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). On appeal, the Petitioner asserts that he meets the following criteria: awards at 8 C.F.R. § 204.5(h)(3)(i), membership at 8 C.F.R. § 204.5(h)(3)(ii), and published material at 8 C.F.R. § 204.5(h)(3)(iii). Upon review of all of the evidence, we conclude that it does not support a finding that the Petitioner meets 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 Petitioner provided evidence demonstrating that he won a gold medal at the 2015 [REDACTED] [REDACTED]. In addition, the record includes documentation such as media coverage indicating the

national recognition of awards from this event. Accordingly, the Petitioner has demonstrated that he satisfies 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 contends on appeal that he meets this criterion based on his membership with the [REDACTED]. The Petitioner provided a document that indicated the [REDACTED] "certifies that [the Petitioner] is registered in the federation registers (as a player) . . . on 07/07/2001, Olympic sports club." It listed six "republican championships" in Egypt and 30 "international championships and camps" that he participated in as a member of the Taekwondo team. In addition, we note that the record includes a letter from [REDACTED] Master/Owner of [REDACTED], stating that the Petitioner "is currently on the [REDACTED] and is one of the top ranked competitors in Taekwondo," as well as internet print-outs from <https://worldtkd.simplycompete.com> listing the Petitioner's license number for [REDACTED] GMS, and www.ma-regonline indicating he represented the [REDACTED] at the 2016 [REDACTED] and placed second in his category. The Petitioner, however, did not provide information or documentary evidence regarding the membership requirements or selection processes for the [REDACTED] or the [REDACTED] to establish that any of these associations require outstanding achievements of their members, as judged by recognized national or international experts. He therefore has not established 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 submitted two articles from the "Ahram Sport" website at <http://sport.ahram.org.eg>. We note that any document in a foreign language must be accompanied by a full English language translation. 8 C.F.R. § 103.2(b)(3). The translator must certify that the English language translation is complete and accurate, and that the translator is competent to translate from the foreign language into English. *Id.* Because the Petitioner did not submit properly certified English language translations of the articles, we cannot meaningfully determine whether the translated material is accurate and thus supports the Petitioner's claims.

Further, while the articles entitled "[REDACTED]" and "[REDACTED]" appear to be about the Petitioner, the record does not include evidence regarding the Ahram Sport website, such as, for instance, documentation regarding its circulation along with comparative statistics, to demonstrate that this publication is a form of major media. In addition, the submitted article from the "Al Ahram" website at www.ahram.org.eg is about the Taekwondo event

in which he competed rather than the Petitioner himself. Specifically, the article entitled “[REDACTED]” summarizes numerous individuals’ performances at the event and only briefly mentions the Petitioner. The plain language of the regulatory criterion requires “published material about the alien.” Articles that are not about the Petitioner do not meet this regulatory criterion. *See, e.g., Negro-Plumpe v. Okin*, 2:07-CV-00820 at *1, *7 (D. Nev. Sept. 2008) (upholding a finding that articles about a show are not about the actor).

Similarly, the record includes online articles from the “Wikipedia” website at <https://en.wikipedia.org>, “Elbalad.news” at www.elbalad.news, and “World Taekwondo United News” at www.wtu.kr. The Wikipedia article entitled “[REDACTED]” lists all first through third place competitors, including the Petitioner, in 16 events.¹ The Elbalad article entitled “[REDACTED]” discusses the Taekwondo event and only references the Petitioner’s participation. The World Taekwondo United News article entitled “[REDACTED]” summarizes the event’s results and does not mention the Petitioner. Accordingly, these articles are not about the Petitioner as required by this criterion, nor does the record contain documentation demonstrating the qualifying nature of these publications.

In addition, the Petitioner offered articles from the “Vetogate” website at www.vetogate.com and the “Al Bawabh” website at www.albawabhnews.com. Although these two articles are about the Petitioner, the authors were not provided and he has not shown that these websites qualify as a form of major media. Accordingly, he has not established that he meets this regulatory criterion.

III. CONCLUSION

The Petitioner is not eligible because he has failed to submit the required initial evidence of either a qualifying one-time achievement or documents that meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). Thus, we do not need to fully address the totality of the materials in a final merits determination. *Kazarian*, 596 F.3d at 119-20.² 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. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the petitioner's burden to establish eligibility for

¹ We note that Wikipedia is an online, open source, collaborative encyclopedia that explicitly states it cannot guarantee the validity of its content. *See* General Disclaimer, Wikipedia.

https://en.wikipedia.org/wiki/Wikipedia:General_disclaimer; *see also Badasa v. Mukasey*, 540 F.3d 909 (8th Cir. 2008).

² In addition, as the Petitioner has not established his extraordinary ability under section 203(b)(1)(A)(i) of the Act, we need not determine whether his intended teaching and coaching work constitutes coming to “continue work in the area of extraordinary ability” under section 203(b)(1)(A)(ii). *See also* USCIS Adjudicator’s Field Manual (AFM), ch. 22.22(i)(1)(C).

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the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012).

ORDER: The appeal is dismissed.

Cite as *Matter of Y-E-A-*, ID# 2090747 (AAO Feb. 26, 2019)