



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

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

MATTER OF E-W-H-

DATE: MAR. 1, 2019

APPEAL OF TEXAS SERVICE CENTER DECISION

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

The Petitioner, a member of the Board of Directors for [REDACTED], seeks to classify the Beneficiary 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 Texas Service Center denied the Form I-140, Immigrant Petition for Alien Worker, concluding that the Beneficiary had satisfied only two of the ten initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner submits a brief arguing that the Beneficiary satisfies at least three 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 that a beneficiary has a one-time achievement (that is a major, internationally recognized award). Alternatively, a petitioner must provide documentation for an individual 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). 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 beneficiary 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 Beneficiary is professional table tennis player and trainer at the [REDACTED]. Because the Petitioner has not indicated or established that the Beneficiary 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 found that the Beneficiary met only two of the initial evidentiary criteria, membership under 8 C.F.R. § 204.5(h)(3)(ii) and critical role under 8 C.F.R. § 204.5(h)(3)(viii). On appeal, the Petitioner maintains that the Beneficiary meets three additional criteria, discussed below. We have reviewed all of the evidence in the record and conclude that it does not support a finding that the Beneficiary 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).

As evidence under this criterion, the Petitioner submitted a certificate stating that the Beneficiary placed second in the “[REDACTED] - Table Tennis” competition at the [REDACTED] in [REDACTED] 2011 and a photograph of him receiving his award.

In addition, the Petitioner presented letters from [redacted] head coach of the [redacted] and [redacted] president of [redacted] and [redacted] noting that the Beneficiary was 12 years old at the time he won second place at the aforementioned competition.¹

The record also included registration information for the event (entitled [redacted] indicating that this competition was held in [redacted] 2011. In response to the Director's request for evidence (RFE), the Petitioner provided an article from Kompas.com, entitled "[redacted] is Held in Bali," that also shows that the aforementioned tournament took place from "[redacted] 2011." While the Beneficiary's certificate from this tournament states that he won second place on "[redacted] 2011," the registration information and article from Kompas.com demonstrate that the competition was not held until [redacted] 2011. A petitioner must resolve discrepancies 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). Unresolved material inconsistencies may lead us to reevaluate the reliability and sufficiency of other evidence submitted in support of the requested immigration benefit. *Id.* Regardless, the information and evidence is not sufficient to demonstrate that the Beneficiary's second place in the [redacted] category is a nationally or internationally recognized prize or award for excellence in the field.

The Petitioner also submitted certificates from [redacted] table tennis competitions indicating that the Beneficiary was an [redacted] (2017), [redacted] (2016), and [redacted] qualifier (2012).² In response to the Director's RFE, the Petitioner presented a letter from [redacted], a member of [redacted] Board of Directors, asserting that both "the 2011 [redacted] and the annual [redacted] Tournaments are international competitions. These tournaments are sanctioned by the International Table Tennis Federation (ITTF) and players come from all over the world." In addition, the Petitioner offered a letter from [redacted] Chief Executive Officer of [redacted] stating that "the annual [redacted] in Table Tennis co-sponsored by the [redacted] is an international tournament sanctioned by the ITTF" and that this competition "is open to all nations." While the aforementioned tournaments were international competitions that included participants from multiple nations, the record does not contain sufficient evidence to demonstrate that the Beneficiary's certificates or standings constitute "nationally or internationally recognized" prizes or

¹ In the appeal brief, the Petitioner contends that [redacted] and [redacted] statements confirm that the [redacted] is an international competition. While their letters mention the name of this tournament and the Beneficiary's age when the competition took place, they do not offer further details regarding his specific award or its level of recognition in the field.

² The Petitioner's documentation for this criterion also included certificates the Beneficiary received in various table tennis competitions (such as the [redacted] and [redacted] [redacted] but the record does not contain sufficient evidence showing that his certificates or standings at these competitions are nationally or internationally recognized prizes or awards in the field.

awards for excellence in the field.³ The Petitioner has not established therefore that the Beneficiary meets this regulatory 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 Director found that that the Petitioner had demonstrated the Beneficiary's eligibility under this criterion. For the reasons outlined below, we find that the Petitioner has not submitted sufficient documentary evidence showing that the Beneficiary meets the requirements of this criterion. Accordingly, the Director's determination on this issue will be withdrawn.

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.⁴

As evidence for this criterion, the Petitioner submitted the Beneficiary's "ITTF Level 1 Coaching Certificate," information about the ITTF from *Wikipedia*, and a flowchart depicting the ITTF Level 1 "Coaching Course Pathway," but he has not shown that successful completion of this ITTF training program constitutes his "membership" in an association. Regardless, this evidence does not demonstrate that earning the ITTF Level 1 Coaching Certificate required outstanding achievements, as judged by recognized national or international experts.

In addition, the Petitioner presented a credential from the [REDACTED] People's Republic of China awarding the Beneficiary "First Class Athlete" membership. In addition, he provided a document entitled "Memberships - Technical grade standards for table tennis players," but the source of this document was not identified. In response to the Director's RFE, the Petitioner offered information from the Chinese Table Tennis Association (CTTA) website entitled "Technical Grade Standards for Table Tennis Players." In addition, the Petitioner's response included a June 2018 letter from [REDACTED], a worker at the "Hong Jiang City Athletic Bureau" (HJCAB), stating that he "participate[s] in the selection and approval of First Class Athlete Memberships" and listing that classification's approval criteria. The record, however, indicates that the Beneficiary's "First Class Athlete" membership was awarded by the [REDACTED] and not the CTTA or the HJCAB. Because the [REDACTED] CTTA, and HJCAB are different organizations, the Petitioner has not established that the CTTA's "Technical Grade Standards for Table Tennis

³ The issue here is not the national or international scope of the Beneficiary's competitions, but rather whether his specific awards are "nationally or internationally recognized" prizes or awards for excellence in the field.

⁴ 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>.

Players” or the HJCAB’s approval criteria are applicable to his [REDACTED] “First Class Athlete” membership.

Even if the Petitioner had demonstrated that the CTTA or HJCAB’s requirements applied to the Beneficiary’s [REDACTED] “First Class Athlete” membership, the record does not establish that this membership classification requires outstanding achievements, as judged by recognized national or international experts. The information from CTTA’s website lists the requirements for receiving the honorary titles of “First Class Athlete” (the Beneficiary’s designation), “National Level Athlete,” and “World-Class Athlete.” For example, the first requirement listed for “First Class Athlete” calls for achieving “top 16 at team event or top 32 at an individual event” in a national contest. In addition, the third requirement calls for achieving “top 8 at team event or top 16 at a single’s event” in the “National Youth Games.” We note that the CTTA’s “World-Class Athlete” and “National Level Athlete” membership classifications require significantly higher levels of achievement than “First Class Athlete” membership.⁵ The Petitioner has not demonstrated that the “First Class Athlete” membership classification requirements rise to the level of outstanding achievements. Finally, the Petitioner has not provided sufficient evidence to demonstrate that “First Class Athlete” candidates’ achievements are judged by recognized national or international experts. For these reasons, the Petitioner has not established that the Beneficiary 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).

As documentation for this criterion, the Petitioner submitted two articles that [REDACTED] authored about the Beneficiary available at [https://www.\[REDACTED\]](https://www.[REDACTED]) “[The Beneficiary]: [REDACTED] 2015) and “[The Beneficiary]: [REDACTED] 2017). In addition, the Petitioner presented statements from [REDACTED] and [REDACTED] (Media and Communications Director for [REDACTED] asserting that the aforementioned website “is the official website for [REDACTED],” “is the most significant publication for [REDACTED],” and “attracts over 35,000 unique readers each month.” The assertions of these [REDACTED] officials, however, are insufficient to demonstrate that their organization’s website qualifies as a form of major media. USCIS need not rely on the self-promotional material of the publisher. *See Braga v. Poulos*, No. CV 06 5105 SJO, *aff’d* 317 Fed. Appx. 680 (C.A.9). The Petitioner has not presented corroborating evidence, nor has it provided comparative statistics or other evidence showing that the readership or number of online views for [https://www.\[REDACTED\]](https://www.[REDACTED]) elevates it to major media

⁵ For instance, according to the CTTA’s “Technical Grade Standards for Table Tennis Players,” “National Level Athlete” membership requires winning first place at a Junior Championship event or at a Chinese National Athletic Association competition. In addition, “World-Class Athlete” membership requires the highest level of achievement such as placing in the top three at the “Olympic Games, World Championships, World Cup events” or achieving a top 20 player ranking from the ITTF.

relative to other publications. Accordingly, the Petitioner has not demonstrated that the Beneficiary satisfies 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).

As evidence under this criterion, the Petitioner provided various letters of support discussing the Beneficiary's playing skills and his work training other table tennis players.⁶ For example, [REDACTED] a [REDACTED] member since 2014, states that the Beneficiary "has been my training partner and coach since 2013 and he is the main reason I have done well in recent years. . . . Although [the Beneficiary] is not listed as my official coach, I know he is the one who has helped me the most in my progress."⁷ In addition, [REDACTED] Coach, asserts that the Beneficiary's "playing style, two winged looper, is rare among the national level U.S. players and therefore he is a much sought-after player for [REDACTED] to build a team of diverse styles." [REDACTED] further indicates: "I not only want [the Beneficiary] to help train our team for international competitions, I also have high hopes that he could represent the U.S. in international competitions one day."

The Director considered the letters of support, but found that they were not sufficient to demonstrate that the Beneficiary has made original contributions of major significance in the field. In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has the beneficiary made contributions that were original but that they have been of major significance in the field. The record, however, does not indicate that the Beneficiary's methods of play have affected numerous others in his sport, that he introduced techniques that have been widely utilized, or that his work otherwise represents an original contribution of major significance in the field.

In his appeal brief, the Petitioner maintains that the Beneficiary meets this criterion, but does not contest the Director's findings for this criterion, point to specific evidence demonstrating his eligibility, or offer additional arguments. Without sufficient evidence showing the nature of his original contributions or their major significance in the field, the Petitioner has not established that the Beneficiary meets 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).

The Petitioner's documentation shows that the Beneficiary has performed in a critical role as a coach and trainer for [REDACTED] and that this organization has a distinguished reputation. The record therefore supports the Director's determination that the Beneficiary meets this criterion.

⁶ We discuss only a sampling of these letters, but have reviewed and considered each one.

⁷ According to her webpage at [https://www.\[REDACTED\]](https://www.[REDACTED]) was the [REDACTED] at the 2015 [REDACTED] and played for [REDACTED] at the [REDACTED] in 2017. Her profile on this webpage identifies her coaches as [REDACTED] and [REDACTED]."

III. CONCLUSION

The Beneficiary is not eligible because 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 Beneficiary has established the acclaim and recognition 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 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). Here, that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of E-W-H-*, ID# 2177180 (AAO Mar. 1, 2019)