



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

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

MATTER OF E-G-

DATE: MAY 14, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, an athlete, seeks classification as an alien of extraordinary ability in the field of martial arts. *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 has received a major, internationally recognized award or met the requirements of at least three of the ten evidentiary criteria.

On appeal, the Petitioner asserts that the Director did not consider evidence submitted in support of several evidentiary 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 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 karate competitor who states that he plans to continue to compete in national and international competitions. The Director found that the Petitioner met none of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), and did not establish that he has received a major, internationally recognized award. On appeal, the Petitioner asserts that he meets several of the evidentiary criteria. After reviewing all of the evidence in the record, we find that he does not meet the initial requirement of at least three of the evidentiary criteria.

A. One-Time Achievement

In response to the examples mentioned in the Director’s decision regarding major, internationally recognized awards, the Petitioner notes on appeal that karate has not previously been an Olympic sport, and points to “his awards and prizes as a multiple champion of Armenia and as a gold medalist during various [redacted].”

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.

Here, while the Petitioner does not refer to a specific award or awards on appeal, he previously mentioned several in his initial brief and in response to the Director's request for evidence (RFE). However, the evidence supporting these awards consists solely of certificates and/or photographs of the Petitioner or a trophy, without further evidence demonstrating the award's status as a major, internationally recognized award. For example, a diploma was submitted from the [redacted] International Karate Cup" which indicates that the Petitioner won first place in his age class (14-15) on [redacted] 2010, but no further evidence is provided. The same is true regarding a certificate from the Georgian National Karate Federation, indicating that the Petitioner won first place in his weight class at the 2015 International Karate Tournament [redacted]

In addition, the certificate accompanying another one of the awards the Petitioner asserts qualifies as a one time achievement, claimed to relate to the [redacted] in [redacted] 2014, is not accompanied by a properly certified translation. 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.* In this case, while the certificate is written in Japanese (an article from the website of one of the participating teams indicates that the tournament took place in [redacted] Japan), the translator's certificate states that he or she is "competent to translate Russian from Armenian language into English language..." Because the Petitioner did not submit a properly certified English language translation of this document, we cannot meaningfully determine whether the translated material is accurate and thus supports the Petitioner's claims.

Because the Petitioner has not submitted evidence which establishes that any of the awards claimed are among the small number of major, internationally recognized awards, we find that he does not have a one time achievement. We will therefore review the evidence submitted under the evidentiary criteria below.

Documentation of the individual'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 addition to the awards mentioned above, the Petitioner submitted numerous certificates which he received at karate tournaments in Armenia and abroad.¹ Similar to the previously discussed awards, many of these additional awards are not accompanied by supporting evidence of their national or international recognition. While several of the certificates include the words "national" or

¹ We note that the Petitioner also listed several awards in his initial brief, and in response to the Director's RFE, for which no evidence was provided.

“international” in the title of the competition, including evidence showing that he earned second or third place in several Armenian [redacted] championships, the fact that a competition was open to athletes from throughout a particular country or countries does not establish that a prize or award from that competition is nationally or internationally recognized.

The Petitioner has submitted additional information about some of the prizes that he received, but it is insufficient to establish that they are nationally or internationally recognized. An article written in Armenian, submitted with an English translation, indicates that he won his age and weight class at the “World Championship of [redacted] Karatedo” in [redacted], but the copy of what appears to be a newspaper article does not include the publication’s name, the name of the author or the publication date. Without this information, as well as evidence of the publication’s distribution and circulation, this evidence does not demonstrate the level of recognition received by this award. Other material includes translations of articles which discuss upcoming tournaments in which the Petitioner will compete, but neither the original articles nor information about the websites was submitted. Therefore, this evidence does not serve to establish that awards received by the Petitioner were nationally or internationally recognized.

Also included in the record is evidence of the Petitioner’s participation in several World Karate Federation tournaments, including “Karate 1 Premier League” events. This evidence establishes that he competed at a high level in his sport, but the evidence does not indicate that he received a prize or award at these tournaments.

After review of the evidence of the Petitioner’s awards and their national or international recognition, we find that the evidence does not sufficiently establish that he meets this criterion.

Documentation of the individual’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)

As evidence of his membership on the Armenian national karate team, the Petitioner submitted a letter from official from [redacted] President of the [redacted] [redacted] verifies his membership with the [redacted] and the national team, but does not elaborate on the requirements for these memberships. In responding to the Director’s RFE, the Petitioner submitted a second letter from [redacted] Vice President of the [redacted] [redacted], who states that the [redacted] is responsible for selecting athletes for the national team. He also indicates that he was one of eight judges at the Armenian national championships in 2012, where the Petitioner placed first in his age group and thus was included on the national team. However, the evidence does not establish that his placings at the Armenian national championships in 2012 and subsequent years qualify as “outstanding achievements” as required by the plain language of this criterion. While [redacted] indicates “over 100 athletes competed for the first three places,” it is not apparent whether this refers to the number of competitors in the Petitioner’s age group or in all age and weight groups combined. Thus the record lacks sufficient evidence of the number and caliber of competitors in these competitions, which might reveal whether winning an award qualifies as an outstanding achievement. In addition, we note that [redacted]

is not a representative of the [redacted], which he describes as the body responsible for making the national team selections, and that the record does not include official [redacted] rules or other documentation describing the selection process and the qualifications of those who determine membership. Therefore, the Petitioner has not established that membership on the Armenian national karate team requires outstanding achievements, and thus does not meet this criterion.

Published material about the individual 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 discussed above, the evidence of written materials about the Petitioner and his athletic career, both in print and online, lacks information about the media in which they appeared which might indicate whether they qualify as professional or major trade publications or other major media. Also, the online evidence consists only of English translations with webpage links, with no copy of the original text submitted. We can therefore not meaningfully determine whether the translations are accurate and credible.

In addition, the Petitioner initially submitted English language translations of transcripts labelled "Video 1" through "Video 4," as well as links to videos on YouTube, in which it appears that he is interviewed briefly and mentions his competition in the [redacted] the 2008 [redacted] and the [redacted]

[redacted] However, these transcripts were not initially accompanied by evidence of the source of these transcripts. In responding to the Director's RFE, the Petitioner submitted screenshots for videos which show him appearing on a television show called "Vitamin Club" and on the "Shant TV" network. We must first note that it is not apparent which translation relates to which video, as this evidence was not submitted together and is not sufficiently labelled. In addition, the Petitioner submitted brief articles describing Shant TV and Vitamin Club from *Wikipedia*. As there are no assurances about the reliability of the content from this open, user-edited Internet site, information from *Wikipedia* will be accorded no evidentiary weight. *See Laamilem Badasa v. Michael Mukasey*, 540 F.3d 909 (8th Cir. 2008).² Further, even if we were to give weight to the content of these articles, it is insufficient to establish that either medium qualifies as professional or major trade media or other major media. As such, we find that the evidence does not establish that the Petitioner meets this criterion.

² See also the online content from http://en.wikipedia.org/wiki/Wikipedia:General_disclaimer, accessed on May 13, 2019, and copy incorporated into the record of proceeding is subject to the following general disclaimer:

WIKIPEDIA MAKES NO GUARANTEE OF VALIDITY. Wikipedia is an online open-content collaborative encyclopedia, that is, a voluntary association of individuals and groups working to develop a common resource of human knowledge. The structure of the project allows anyone with an Internet connection to alter its content. Please be advised that nothing found here has necessarily been reviewed by people with the expertise required to provide you with complete, accurate or reliable information. . . . Wikipedia cannot guarantee the validity of the information found here. The content of any given article may recently have been changed, vandalized or altered by someone whose opinion does not correspond with the state of knowledge in the relevant fields.

Evidence of the individual'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)

The Petitioner submitted two letters from [redacted] which relate to this criterion, one typed in English and dated May 7, 2018, and another translated from Armenian but not dated. In the dated letter, he states that the Petitioner “was elected by the Federation’s Referee Committees to serve as a referee during numerous competitions” in Armenia. He states in the dated letter that the Petitioner participated in referee training courses from 2013-17, receiving a “Judge-B” degree in 2016 and “Judge-A” degree in 2017. He also indicates that the Petitioner served as an “edge judge” for junior competitions in 2015, and as a judge at a tournament in [redacted] Georgia.

However, neither letter describes the duties of a referee 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 the tournaments listed in the letter, showing that serving as a “referee” in this instance equates to participating as a “judge” of the work of others. Without further documentation, such as evidence that he awarded points or exercised his judgment in choosing the ultimate winner, evidence regarding officiating at a match is insufficient to meet this criterion.

Evidence of the individual'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)

In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has he made original contributions, but that they have been of major significance in the field. For example, a Petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance.

On appeal, the Petitioner asserts that his training of karate students, who then went on to have success in competitions, establishes his qualification under this criterion. The record includes letters from three martial arts associations in Armenia which indicate that he conducted seminars with them in 2015, 2016 and 2017. In addition, two letters were submitted from members of the [redacted] who indicate that the Petitioner trained them, and both indicate that he “was presented as my coach” at the [redacted] Karate Championship in 2015 and that they received medals at this event, as well as others. We must first note that these letters are not accompanied by verifiable evidence that the writers received the awards they claim, as the record contains only photographs of unidentified individuals holding certificates. In addition, the Petitioner has not submitted any evidence relating to his training or qualification as a karate coach. Most importantly, the evidence is insufficient to establish that, even if the Petitioner served as coach for these two athletes who have had success at the national level, this activity is an original contribution of major significance to the field of karate.

The Petitioner also asserts that the evidence of his publication of two karate manuals serves to show an original contribution to the field. As discussed in more detail under the criterion below, the evidence regarding these manuals is incomplete, including a letter which states that 3000 copies of these manuals were published. While a letter from Mr. [REDACTED] indicates that they are used by the [REDACTED] of Armenia in its trainings, as well as by other martial arts federations in Armenia, the evidence is insufficient to establish that they are original contributions by the Petitioner, and that they have made an impact to the sport of karate to the level of major significance. [REDACTED] assertions regarding the activities of other martial arts groups in Armenia are not supported by evidence from those groups, or other documentary evidence. Therefore, upon review of the evidence regarding the Petitioner's work as a trainer and as an author of karate instructional manuals, we do not find that he meets this criterion.

Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media. 8 C.F.R. § 204.5(h)(3)(vi)

Evidence of the Petitioner's authorship of two manuals was submitted, titled [REDACTED] and [REDACTED]. In general, a scholarly article should be written for learned persons in that field, which include those having a profound knowledge in a field.³ A partially translated letter from [REDACTED] LLC" was submitted which states that they are "intended for karate trainers, as well as for the wide range of public." However, the title of the person signing the letter is not provided in the translation, and the record does not include information about this company and its relationship to the issuance of these manuals. Also, [REDACTED] writes in his letter dated August 20, 2018 that the first of these manuals "is on the basic techniques required to be developed by martial art athlete," and the second is an "informational guide for referees." These descriptions indicate that the manuals provide information for beginning athletes and referees in the field of martial arts, not advanced, scholarly information for those with a profound knowledge in the field. Further, the record does not include the contents of these manuals, or English translations of that content, which would be probative as to whether they can be considered to be scholarly in nature. Therefore, the record does not sufficiently establish that the Petitioner meets this criterion.

Evidence that the individual 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 asserts that his membership on the Armenian national karate team, and his representation of Armenia at various international competitions, shows that he meets this criterion, but he does not clarify whether he claims a leading or critical role for the national team. We note that being a member of a national team does not, by itself, sufficiently demonstrate a critical role. Instead, the Petitioner must show how his performance was considered essential to the team's overall performance. In general, a critical role is commonly one in which a petitioner was responsible for the success or standing of the organization or establishment. Here, the Petitioner has not submitted evidence to show how his contribution to the national team was critical to any success it may have

³ See USCIS Adjudicator's Field Manual, Chapter 22.2(i)(1)(A) <https://www.uscis.gov/sites/default/files/ocomm/ilink/0-0-0-6423.html#0-0-0-417>

enjoyed. In addition, the Petitioner has not asserted that he has played a leading role within the hierarchy of the Armenian national team, or the [REDACTED].

We further note that the Petitioner has not established that the Armenian national karate team enjoys a distinguished reputation. Accordingly, we find that the Petitioner has not established that he meets this criterion.

III. CONCLUSION

As detailed above, the evidence does not establish that the Petitioner received a major, internationally recognized award or meets three of the ten evidentiary criteria. As a result, we need not provide the type of final merits analysis determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in its entirety, and conclude that it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought. For these reasons, the Petitioner has not shown that he qualifies for classification 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. 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-G-*, ID# 3121110 (AAO May 14, 2019)