



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

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

MATTER OF Y-Z-

DATE: MAY 21, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a Go player and teacher, 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 not satisfied any of the ten initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner submits a statement asserting that he fulfills 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 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 he or she is able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to the individual’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

As a Go player and teacher at the [redacted] Go Center, the Petitioner competes in tournaments, organizes Go events, and instructs students. 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 found that the Petitioner did not meet any of the initial evidentiary criteria. On appeal, the Petitioner maintains that he satisfies the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(iv), discussed below. We have reviewed all of the evidence in the record and conclude that it does not support a finding that he 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 presented competition results indicating that he placed second in the “Main Championship” at the 17th [redacted] Tournament (2012). The record includes the webpage for the [redacted] which discusses the format of the tournament and competition rules. This webpage states: “There are two categories: one is the Main Championship and the other is the Ranked Championship. You can participate in the Main Tournament regardless of your Go strength.” While the Petitioner provided information about this

tournament, the evidence is not sufficient to demonstrate that his second place among unranked amateur players is a nationally or internationally recognized prize or award for excellence in the field.¹

In addition, the Petitioner provided results for the 2013 [redacted] Tournament and the 21st [redacted] Tournament (2017) showing that he placed in the top eight in these two competitions. He also submitted documentation indicating that he placed 12th (2011) and 8th (2012) at the 9th and 10th [redacted] Championships, respectively. Furthermore, the record indicates that the Petitioner placed 8th in the “Junior Male Section” at the [redacted] Tournament (1995) and 4th at the [redacted] Tournament (2013). While several of the aforementioned tournaments were international competitions that included participants from multiple nations, the record does not include sufficient evidence to demonstrate that the Petitioner’s standings constitute “nationally or internationally recognized prizes or awards” for excellence in the field.

The record also contains a December 1999 “Certificate for First-Class Athlete” “approved by” the Sports Administration of [redacted] China stating: “According to the ‘Standard for Athlete Level Ranks,’ [the Petitioner] is found to be qualified for, and here be [sic] awarded the title of First-Class Athlete.”² The evidence, however, is not sufficient to show that this certificate is a nationally recognized award for excellence in the Petitioner’s field.

Furthermore, in response to the Director’s request for evidence, the Petitioner submitted a [redacted] 2018 article in *American Go E-Journal* stating that he won the [redacted] Go Center’s “Anniversary Tournament” (2016) and “Spring Tournament” (2018). The Spring Tournament, however, post-dated the filing of the petition. Eligibility must be established at the time of filing. See 8 C.F.R. § 103.2(b)(1). Regardless, the Petitioner has not demonstrated that his awards from these two tournaments were nationally or internationally recognized prizes or awards for excellence in the field. For example, the Petitioner has not shown that *American Go E-Journal*’s coverage³ and winning local tournaments hosted by his employer are indicative of national or international recognition. He has not established therefore that he 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 Petitioner contends that his American Go Association (AGA) dan rank and rating meet this criterion. The record includes a July 2018 letter from [redacted] of the AGA, indicating that the Petitioner “is an amateur 7 dan player, based on his 7.8 AGA rating.” [redacted] further explained that the AGA has amateur rankings “starting at 1 dan and going up to 7 dan” and that professional rankings range from 1p to 9p. For example, regarding Go professional rankings, he

¹ The issue here is not the national or international scope of the Petitioner’s competitions, but rather whether his specific awards are “nationally or internationally recognized” prizes or awards for excellence in the field.

² The Petitioner explained that he received this title because he “won the Go Championship of [redacted].”

³ We will further address this evidence under the published material criterion at 8 C.F.R. § 204.5(h)(3)(iii).

indicated that AGA professional [redacted] defeated “international title holder [redacted] last year.”⁴ The record does not show that the Petitioner’s amateur dan rank and rating constitute a specific type of “membership” in the AGA or rise to the level of outstanding achievements.⁵ Nor has the Petitioner provided sufficient evidence to demonstrate that AGA members’ achievements are judged by recognized national or international experts.

As further evidence under this criterion, the Petitioner asserts that he “represented the U.S. team in the [redacted]. He provided an April 2017 letter from [redacted] organizer of the [redacted] stating: “In 2009, when selecting players for the 2nd [redacted] [the Petitioner] was recommended to me by [redacted] who assisted me in coordinating the U.S. team. . . . Because of [the Petitioner’s] acclaim as one of the best Go players in the U.S., I decided to invite him to join the U.S. Team.” While [redacted] further indicated that the Petitioner was again invited to join the U.S. team at the 3rd [redacted] in 2011 and was “an unreplaceable member of the U.S. team,” he did not provide its membership requirements or discuss its player selection process. Without supporting documentary evidence showing that the [redacted] U.S. team required outstanding achievements of its members, as judged by recognized national or international experts, the information from [redacted] is not sufficient to meet this criterion.

In addition, the Petitioner maintains that his December 1999 “Certificate for First-Class Athlete” satisfies this criterion. His “First-Class Athlete” designation, however, is an award or title, and not documentation of his membership in an association in the field. Furthermore, the Petitioner has not provided sufficient evidence of the requirements for earning this designation. Finally, he has not provided documentation to demonstrate that “First-Class Athlete” candidates’ achievements are judged by recognized national or international experts. For the above reasons, the Petitioner 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).

As documentation for this criterion, the Petitioner submitted two [redacted] 1999 articles in *Baoding Evening News* entitled [redacted] [redacted] and [redacted]. The first article is about the Petitioner while the latter article only mentions him in passing.⁶ This regulatory criterion requires “published material about the alien.” Articles that are not about him 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). In addition, the Petitioner presented an article discussing *Baoding Evening News*’ media honors available at www.he.xinhuanet.com, but this information is not sufficient to show that *Baoding Evening News* is a form of major media. The record

⁴ [redacted]’s discussion of “professional” ranking categories identified multiple levels above the Petitioner’s “7 dan” amateur ranking that reflect higher levels of achievement.

⁵ Accruing points in amateur Go tournaments or passing exams to be awarded a dan rank do not necessarily constitute outstanding achievements.

⁶ The latter article is about the [redacted] tournament and includes just two sentences mentioning the Petitioner.

also contains information from the aforementioned newspaper's webpage stating that it "has an average daily distribution of 100,000." The Petitioner, however, has not presented comparative statistics or other evidence demonstrating that the readership for *Baoding Evening News* elevates it to major media relative to other publications.

In addition, the Petitioner provided the *Wikipedia* entry for [redacted] that includes the schedule and results for its first, second, and third tournaments. This *Wikipedia* entry lists the Petitioner among numerous other tournament participants, but the material is not about him. Furthermore, 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* (November 29, 2018), https://en.wikipedia.org/wiki/Wikipedia:General_disclaimer; *Badasa v. Mukasey*, 540 F.3d 909 (8th Cir. 2008). Nor was the author of the material identified as required by this criterion.

The record also includes a [redacted] 2012 article available at www.sina.com.cn, entitled "[redacted]"⁷ This article describing and promoting the upcoming convention briefly identifies the Petitioner as one of the personnel in charge, but the material is not about him. Nor has the Petitioner demonstrated that "published material" as referenced in the regulation includes this type of promotional material.⁸ In addition, while the Petitioner presented a "List of most popular websites" from *Wikipedia* ranking www.sina.com.cn 19th among "Alexa top 100 global websites," this information alone is insufficient to show that the aforementioned website is a form of major media.

Furthermore, the Petitioner provided competition results available at [redacted] listing his and the other participating players' standings at various Go tournaments.⁹ These tournament results do not constitute published material about the Petitioner, nor is the author of the material identified as required for this criterion. In addition, while the Petitioner presented information about *The Nikkei* (a Japanese economics newspaper) from *Wikipedia*, the record does not show that the submitted tournament results were published in that particular newspaper.

The Petitioner presented additional articles appearing in *American Go E-Journal*, but the majority of these articles did not identify an author.¹⁰ Further, the articles were about Go events or tournaments and not the Petitioner. Finally, the record does not show that *American Go E-Journal* qualifies as a form of major media. Based on the foregoing, the Petitioner has not demonstrated that he satisfies this regulatory criterion.

⁷ The author of this material is identified as the "Organization Committee of the North American Go Association."

⁸ 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 7* (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html> (providing that marketing materials created for the purpose of selling a petitioner's products or promoting his or her services are not generally considered to be published material about the petitioner).

⁹ These webpages include a copyright for "Nikkei Inc.," owner of *The Nikkei* newspaper.

¹⁰ As discussed, the [redacted] 2018 article in *American Go E-Journal* post-dated the filing of the petition. Eligibility must be established at the time of filing. See 8 C.F.R. § 103.2(b)(1).

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 July 2018 letter from [redacted] stated that the Petitioner served as “tournament director of a two-weekend event in 2013, the [redacted]” and assessed Chinese players individually to determine their strength and level of play for proper assignment in the tournament. Accordingly, the Petitioner has established 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. 953, 954 (Assoc. Comm’r. 1994). Here, the Petitioner has not shown that the significance and recognition of his work are indicative of the required sustained national or international acclaim or that they are 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. 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 Y-Z-*, ID# 3113738 (AAO May 21, 2019)