U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 5947481

Date: NOV. 26, 2019

Appeal of Texas Service Center Decision

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

The Petitioner, a ballroom dance coach, seeks classification as an individual 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 petition, concluding the Petitioner satisfied only two of the ten initial evidentiary criteria for this classification, 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 is a former competitive ballroom dancer who currently works as a ballroom dance coach and instructor in the United States.[1]

A. Evidentiary Criteria

Because 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). The Director found that the Petitioner had met two of those ten criteria, specifically those related to judging the work of others in the field and published materials in major media. On appeal, the Petitioner asserts that he meets four additional criteria: awards at 8 C.F.R. § 204.5(h)(3)(i); membership at 8 C.F.R. § 204.5(h)(3)(ii); original contributions 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). After reviewing all of the evidence in the record, we find that it does not establish that the Petitioner meets the requirements of at least three criteria.

> *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).

The Petitioner provided evidence of awards and prizes received by his dance students and asserts that many of these awards qualify as nationally or internationally recognized awards in the sport of ballroom dance. However, in order to satisfy the plain language of the regulation, the Petitioner must established that he himself was the recipient of nationally or internationally recognized awards; awards received by his students do not satisfy this criterion.

In evaluating this criterion, we will also consider evidence of the Petitioner's achievements as a competitive ballroom dancer.[2] However, as noted by the Director, the awards or prizes he received as

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[1] The record indicates that, at the time of filing, the Petitioner was working as a dance instructor at [redacted] pursuant to an approved O-1 nonimmigrant petition. In response to the Director's request for evidence (RFE), the Petitioner provided evidence that he had since accepted employment as a lead dance coach at a [redacted] in California.

[2] We note that the U.S. Citizenship and Immigration Services (USCIS) Adjudicator's Field Manual (AFM) provides: In general, if a beneficiary has clearly achieved *recent* national or international acclaim as an athlete and has sustained that acclaim in the field of coaching/managing at a national level, adjudicators can consider the totality of the evidence as

a dancer are not sufficiently documented in the record. The Petitioner submitted a copy of his "International Competition Dance Book" from the [redacted] Dance Association [redacted].[3] While it appears that this document may list his competition results, only the first two pages of the book were accompanied by an English translation.

The record also contains photographs of approximately 25 trophies and medals (dated in the mid-1990s through 2002), which are lacking English translations and do not include the Petitioner's name. This evidence alone is insufficient to demonstrate that the Petitioner actually received these awards or prizes absent copies of award certificates, official competition results, or other corroborating evidence identifying him as the recipient. Finally, the Petitioner did not submit evidence to establish that any prizes or awards he received as a ballroom dance competitor were nationally or internationally recognized awards in his field.

The Petitioner submitted a reference letter from [redacted] who states that the Petitioner won "national and international tournaments and championships" including the "[redacted] Tournament of Ballroom Dance for [redacted]" the "Final [redacted]," the "[redacted] Championship of [redacted]; and the 2012 "[redacted] Ballroom Dancing Competition." The Petitioner did not submit supporting evidence showing his receipt of these prizes or awards, and [redacted]'s letter is insufficient to establish that the Petitioner both received the awards and that they satisfy all elements of this criterion.

Finally, the Petitioner references his "Certificate of Professional Achievement" issued by the Dance Vision International Dance Association (DVIDA). This certificate indicates that he "passed a qualifying exam demonstrating professional level Dancing, Theory and Teaching Skills" and was awarded an "Associate of Dance Degree, International Style Standard" with "High Honors." The evidence indicates that this certificate is a teaching credential granted to those who successfully complete the DVIDA curriculum rather than a nationally or internationally recognized award or prize for ballroom dance or for ballroom dance instruction.[4]

For the reasons discussed, the Petitioner has not established 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).

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establishing an overall pattern of sustained acclaim and extraordinary ability such that we can conclude that coaching is within the beneficiary's area of expertise.

AFM chapter 22.22(i)(1)(C) (Emphasis in original)

[3] We note that this organization is referred to interchangeably in the record as both [redacted] Dance Association" and "[redacted]"

[4] The submitted materials identify the DVIDA curriculum as "the number one Curriculum used by independent dance teachers and studios across North America and around the world."

The Petitioner initially claimed that his membership in both the [redacted] and in the [redacted] Dance Association Team satisfy this criterion. However, on appeal the Petitioner asserts that he meets this criterion "based on [his] membership in the Association's DanceSport team, not based on his membership in the association."

In order to satisfy this criterion, the Petitioner must show that he is a member of an association, and 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.[5]

In support of this criterion, the Petitioner has submitted three letters from [redacted], president of the [redacted].[6] In a letter dated October 9, 2018, [redacted] states that the Petitioner was on the [redacted] Dance Association Team from 1997 until 2014 and that the criteria for "full team membership" included "demonstration of outstanding achievements in the field of Dancesport as judged by nationally and internationally recognized experts in the field of Dancesport." He describes the team as "highly selective and exclusive" as the team members are expected to represent [redacted] at the highest level of national and international competitions." [redacted] names some current and past members of the team and their achievements, noting that, because the Petitioner was "was accepted at the same level of membership . . . his acceptance to [redacted] Teams clearly confirms his membership in an organization that requires outstanding achievements of its members."

In a second letter, dated October 12, 2018, [redacted] states that "[i]n accordance with the by-law of the [redacted] Association of Ballroom Dances, admission to the [redacted] Association of Ballroom Dances Team is granted only to those who have demonstrated a consistent track record of outstanding achievements in the dancesport." He indicates that the Petitioner, at the time he was admitted to the team, was a ballroom dance champion in [redacted] and that "[f]or this reason, as an internationally recognized expert in the field . . . I recommended [the Petitioner's] admission" to the team. A letter from former ballroom dance athlete and current dance coach [redacted] repeats the same language verbatim with respect to the Petitioner's selection for the [redacted] Association of Ballroom Dance team. He indicates that he recommended the Petitioner's admission based on his status as a [redacted] ballroom dance champion and stated that he himself was "an internationally recognized expert in the field of dancesport" at the time he made the recommendation.

In determining that the Petitioner did not demonstrate that he meets this criterion, the Director observed that while [redacted] referred to the by-laws of the [redacted] Dance Association, the Petitioner did not submit a copy of the by-laws or other objective evidence outlining the requirements for admission to the [redacted] or the national [redacted] team. On appeal, in response to the Director's finding, the Petitioner submits a third letter from [redacted] who reiterates his previous statement that "admission to the [redacted] Association of Ballroom Dance[] Team is granted only to those who have demonstrated a consistent track record of outstanding achievements in the DanceSport."

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[5] *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).

[6] The record contains a fourth letter from [redacted] dated in 2014, which he wrote in his capacity as director of a [redacted] dance school called "[redacted]."

Upon review of the evidence submitted to meet this criterion, we agree with the Director's determination that it has not been met. Depending on the specificity, detail, and credibility of a given letter, USCIS may give the document more or less persuasive weight in a proceeding. The Board of Immigration Appeals (the Board) has held that testimony should not be disregarded simply because it is "self-serving." *See, e.g., Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing cases). The Board also held, however: "We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available." *Id.* If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

Here, the letters outlining the details of the Petitioner's membership on the [redacted] Association of Ballroom Dance team do not specifically identify the criteria for membership or the selection processes and procedures used to determine team membership. Instead, they repeat the language of the regulation at 8 C.F.R. 204.5(h)(3)(ii). Repeating the language of the statute or regulations does not satisfy the petitioner's burden of proof. *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*, No. 95 CIV. 10729, *1, *5 (S.D.N.Y. Apr. 18, 1997).

Further, as noted in our discussion of the Petitioner's awards and prizes in the field, his achievements as a dancer are not sufficiently documented in the record. As a result, the evidence does not corroborate, for example, [redacted]'s or [redacted]'s assertion that the Petitioner's membership on the [redacted] team was based on winning one or more [redacted] championships. Further, while both [redacted] and [redacted] indicate that they personally reviewed the Petitioner's qualifications at the time he was placed on the team, it is unclear in what capacity they did so in light of [redacted]'s statement that the Petitioner became a team member in 1997. Again, the record does not document how membership on the team is determined, who makes decisions regarding team placement, or whether either [redacted] or [redacted] was in a position to make that recommendation or determination more than 20 years ago. Although the Director specifically mentioned the lack of corroborating evidence of membership requirements and procedures, such as the by-laws referenced by [redacted], the Petitioner has not supplemented the record with such evidence on appeal. Accordingly, this criterion has not been met.

> *Published material about the individual in professional or major trade publications or other major media, relating to the individual'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).

Although the Director determined that the Petitioner fulfilled this criterion, we disagree and will withdraw that finding. The record does not contain published material about the Petitioner in professional or major trade publications or other major media, including the title, date, and author.[7]

The Petitioner provided articles from various Polish websites, including jelonka.pl, naszemiasto.pl, muzyczneradio.com.pl, and nj24.pl. However, these articles were about the achievements of dancers coached by the Petitioner and not about him. For example, the article from jelonka.com ([redacted]

[7] *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 7.

[redacted]" is about a national television appearance made by two young dancers who trained at the Petitioner's dance academy in [redacted]. It contains a quote from the Petitioner, but the article is about the young dancers and their experience on the television program. The article from naszemiasto.pl is about the dance couple who won "The [redacted] Championships of Older Children" and merely mentions that they are coached by the Petitioner and another instructor, while the article from muzyczneradio.com.pl does not mention the Petitioner by his name at all. Articles that are not about the petitioner do not meet 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 about a show are not about the actor). In addition, some of the submitted articles do not identify the author of the material, and the submitted evidence does not establish that any of these websites qualify as a professional or major trade publications or other major media. For instance, the Petitioner provided information indicating naszemiasto.pl and nj24.pl are local or regional news sources.

The record does include one article about the Petitioner titled '[redacted]' which was published by *Nowy Dziennik* in [redacted] 2017. However, the Petitioner has not demonstrated that this article appeared in a professional journal, major trade publication, or other major media. The Petitioner initially submitted information from Wikipedia indicating that *Nowa Dziennik* is a Polish-language weekly newspaper published in New York, with a circulation of 15000.[8] The Petitioner also submitted a letter from [redacted] the newspaper's editor, who confirms the circulation number. He states that the newspaper provides information related to politics, show-business, sport and cultural events, and indicates that *Nowy Dziennik* "is a major media focusing mainly on a Polish diaspora located in Greater NY area and NJ."

Notwithstanding [redacted]'s assertion, the Petitioner has not established based on the provided that *Nowy Dziennik* qualifies as major media. The Petitioner did not provide comparative circulation data to establish that a circulation of 15,000 is high compared to the circulation of other publications in the United States. Further, the record indicates that the intended audience is a relatively small population living in a limited geographic area. For the reasons discussed, the Petitioner has not established that he meets this criterion.

> *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)

We agree with the Director's finding that the Petitioner submitted evidence to satisfy this criterion. The Petitioner provided evidence that he served as an adjudicator at the 15th Annual Terrier Dancesport Competition.

> *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)

[8] 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 (last visited Nov. 14, 2019); *see also Badasa v. Mukasey*, 540 F.3d 909, 910-11 (8th Cir. 2008).

To satisfy this criterion, the Petitioner must establish that not only has he made original contributions but that they have been of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v). Major significance in the field may be shown through evidence that his original coaching or training methods have been widely accepted and implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field.[9]

As evidence that he meets this criterion, the Petitioner provided recommendation letters from other dancers, dance instructors, and from his students.[10] Several of these letters were very general and contained identical language. For example, letters from dancers [redacted], [redacted] and [redacted] all state: "I can assure you [the Petitioner] is among the top Ballroom and Latin dancers as far as I can see. His ability to help others grow in this popular world of Ballroom Dancing is one of the best I've seen." In addition, letters from [redacted] and [redacted] both contain the following language: "Among the couples who were trained by him in my studio had an excellent reputation as a coach" and "I know [the Petitioner] gived [*sic*] a lot of lectures in other dance studios in our region and he always get [*sic*] positive opinions as professional dance coach." The submission of letters of support from the petitioner's personal contacts is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795-796; *see also Matter of V-K-,* 24 I&N Dec. at 500 n.2 (BIA 2008).

Letters from the Petitioner's students are similarly lacking in detail as to how he has made an original contribution of major significance to ballroom dancing. For example, the Petitioner's students [redacted] and [redacted] describe him as "dedicated, inspirational and unique" and opine that he is "one of the top male teachers in whole United States." [redacted], a dancer coached by the Petitioner, states that "he knew how to make us perform at our greatest" and notes that he has won "the prestigious [redacted] Ball" and other events "thanks to [the Petitioner's] expertise as a dancing teacher." Dancer [redacted] states that the Petitioner's "approach to dancing is scientific" and notes that "he developed a system that relies on the strength of the body, the fortitude of the mind and the knowledge of the movement." He emphasizes that the Petitioner stressed a "strict nutrition schedule," lessons to improve focus and theatrical performance," and "dance knowledge" and attributes his success in competitions to the Petitioner's coaching.

Finally, the Petitioner presented letters from [redacted], [redacted] and [redacted] as expert opinion letters. However, it appears that these individuals evaluate the Petitioner's overall qualifications for this classification, rather than specifying whether or how he has made original contributions of major significance to the field of ballroom dance. For example, [redacted] states that the Petitioner's students' "outstanding accomplishments made him a distinguished reputation in the dancesport community and [redacted] states that "the achievements of [the Petitioner's] students, taken in totality, evidence his contribution of major significance to the field of Ballroom Dance as a coach because [he] was able to coach the winners of top national and international competitions . . . which is a unique and rare achievement."

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[9] *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, 8-9.

[10] While we do not discuss every letter here, we have reviewed and considered all of the letters submitted in analyzing whether the Petitioner met this criterion.

Letters from experts may add value if they specifically articulate how a petitioner's original contributions are of major significance and what impact they had on subsequent work, while letters that lack specifics and simply use hyperbolic language do not add value and are not considered to be probative evidence that may form the basis for meeting this criterion.[11] The letters submitted by the Petitioner commend his abilities, the accomplishments of his students, and his impact on the careers of individual dancers with whom he has worked, but they do not explain how he has made original contributions that have widely impacted the field. Although [redacted] attributes a novel scientific approach of teaching to the Petitioner, his statement is not sufficient to meet the criterion because the record does not contain adequate information or documentation to demonstrate the impact of his teaching method and extent of its use. After review, the evidence in the record is insufficient to establish eligibility for 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 Director determined that while the Petitioner provided evidence that he played a leading or critical role as co-founder, director, and head coach for the [redacted] Dance Academy, he did not provide evidence that this organization has a distinguished reputation. Similarly, the Director noted the Beneficiary's position as Chief Treasurer for the [redacted] Association of Ballroom Dancers, but found that the record lacked evidence of this organization's distinguished reputation.

On appeal, the Petitioner asserts that the previously submitted evidence is sufficient to establish that the [redacted] Association of Ballroom Dancers is an organization with a distinguished reputation. In addition, he provides an expert opinion letter from [redacted] Dance Department Chair at the [redacted] College of the Arts, stating that "the achievements of [redacted] Dance Academy's] students have contributed to its reputation as a distinguished dance academy."

As it relates to a leading role, the evidence must establish that a petitioner is or was a leader. A title, with appropriate matching duties, can help to establish if a role is or was, in fact, leading.[12] Regarding a critical role, the evidence must demonstrate that a petitioner has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities. It is not the title of a petitioner's role, but rather the performance in the role that determines whether the role is or was critical.[13]

With respect to the Petitioner's role with the [redacted] (or [redacted] Association of Ballroom Dancers), the Petitioner provided a letter from its president, [redacted] who states that the Petitioner "played a leading and critical role in our organization by being an active member of General Association Tribunal, General Convention, the Board in [redacted] Region [one of 17 [redacted] regional boards], and the Circuit Executive Board holding a position of Treasurer, which required a great deal of responsibility and being in charge of the finance of the organization." He explained that the members of the General Association Tribunal are elected from among the 150 members of the General Convention and are charged with settling disputes, considering appeals and interpreting regulations to aid the work of [redacted]

[11] *See* USCIS Policy Memorandum PM-602-0005.1, *supra*, at 8-9.
[12] *See* USCIS Policy Memorandum PM-602-0005.1, *supra*, at 10.
[13] *Id.*

regional tribunals. [redacted]'s letter does not provide sufficient detail, however, to establish how these board positions were leading based on the Petitioner's actual duties and the structure of the organization. Moreover, his letter does not demonstrate how the Petitioner's positions with [redacted] contributed in a way that is of significant importance to the outcome of the organization or establishment's activities. It is not the title of a petitioner's role, but rather the performance in the role that determines whether the role is or was critical.[14] Further, we note that the Petitioner relies solely on testimonial evidence, without corroborating documentation, in support of its claim that [redacted] has a distinguished reputation.

Finally, while we acknowledge the Petitioner's leading role as the founder and head coach at the [redacted] Dance Academy, we agree with the Director's determination that the record does not contain sufficient evidence of this organization's distinguished reputation. The Petitioner describes his school as "one of the most prestigious dance and choreography schools in [redacted]." The Board of Immigration Appeals (the Board) has held that testimony should not be disregarded simply because it is "self-serving." *See, e.g., Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing cases). The Board also held, however: "We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available." *Id.* Here, the record does not contain supporting evidence of the school's reputation other than information from the school's own website. While the newly-submitted expert opinion letter from [redacted] comments on the school's reputation, the language that appears in the letter is identical to language that appears in the Petitioner's own initial statement in support of the petition, which limits the probative value of her statements.

For the reasons discussed above, the Petitioner has not established that he meets this criterion.

B. O-1 Nonimmigrant Status

In addition, we note that the record reflects that the Petitioner received O-1 status, a classification reserved for nonimmigrants of extraordinary ability. Although USCIS has approved at least one O-1 nonimmigrant visa petition filed on behalf of the Petitioner, the prior approval does not preclude USCIS from denying an immigrant visa petition which is adjudicated based on a different standard – statute, regulations, and case law. Many Form I-140 immigrant petitions are denied after USCIS approves prior nonimmigrant petitions. *See, e.g., Q Data Consulting, Inc. v. INS*, 293 F. Supp. 2d 25 (D.D.C. 2003); *IKEA US v. US Dept. of Justice*, 48 F. Supp. 2d 22 (D.D.C. 1999); *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). Furthermore, our authority over the USCIS service centers, the office adjudicating the nonimmigrant visa petition, is comparable to the relationship between a court of appeals and a district court. Even if a service center director has approved a nonimmigrant petition on behalf of an individual, we are not bound to follow that finding in the adjudication of another immigration petition. *Louisiana Philharmonic Orchestra v. INS*, No. 98-2855, 2000 WL 282785, at *2 (E.D. La. 2000).

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

[14] *Id.*

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 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).

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.