



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

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

MATTER OF I-T-

DATE: SEPT. 3, 2019

APPEAL OF NEBRASKA SERVICE CENTER DECISION

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

The Petitioner, a competitive weightlifter, 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 satisfied only two of the ten initial evidentiary criteria, of which he must meet at least three.

On appeal, the Petitioner submits additional documentation and a brief 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 the 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

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 met only the awards and membership criteria under 8 C.F.R. § 204.5(h)(3)(i) and (ii), respectively. On appeal, the Petitioner maintains that he also satisfies the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(iii)-(v), 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 documentation indicating that he has received nationally recognized awards for excellence in the sport of weightlifting. For example, he won first place at the [redacted] in 2014. Accordingly, the record supports the Director’s determination that the Petitioner 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 his eligibility under this criterion. For the reasons outlined below, we find that the Petitioner has not submitted sufficient documentary evidence showing that he meets the requirements of this criterion. Accordingly, the Director's determination on this issue will be withdrawn.

The Petitioner asserts that he meets the membership criterion through obtaining a vocational diploma in weightlifting from the [redacted]. This entity is an academic institution where he was enrolled as a student rather than an association in which he was a member. The Petitioner did not indicate or demonstrate that he acquired "membership" with the community college based on his outstanding achievements, as judged by recognized national or international experts.

As further evidence under this criterion, the Petitioner asserts that he has been a member of the [redacted] weightlifting team. He provided a letter from [redacted] the general secretary of the [redacted]. [redacted] confirmed that the Petitioner has been a [redacted] member since 2009 and stated that the [redacted] "requires outstanding achievements of its members, as judged by national and internationally recognized experts in the field of [redacted] weightlifting." [redacted] did not define what outstanding achievements are required of its members, or explain in any detail how the federation determines if an individual is an outstanding weightlifter. 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); *Ayvr Associates, Inc. v. Meissner*, 1997 WL 188942 at \*5 (S.D.N.Y.). In his letter, [redacted] explained that "we are unable to provide copies of the team's rules or organizational documents as these are not open to the public according to Georgian law." However, the Petitioner did not submit supporting evidence demonstrating that Georgian law precludes showing the [redacted]'s organizational documents, or further information as to why the organization could not share the [redacted] team's membership requirements.

The record also includes a letter from [redacted] president of the [redacted] discussing the Petitioner's weightlifting training, competitive awards, and personal qualities. While this letter identified the Petitioner as a member of the [redacted] it did not list the team's membership requirements or discuss the athlete selection process. The Petitioner also provided a document describing the history of the sport of weightlifting in [redacted] but this document does not mention the [redacted] or its membership requirements. In addition, the record does not contain sufficient information on the individuals that choose the team members and whether they are national or international experts in their disciplines or fields. Without sufficient evidence showing that the Petitioner's associations require outstanding achievements of their members, as judged by recognized national or international experts, he 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 evidence for this criterion, the Petitioner presented newspaper articles about him in *Lelo* and *People's Education* (2010 – 2017). According to the submitted media kit from *Lelo*, that newspaper has a circulation of 2,000-2,500 copies distributed throughout Georgia. In addition, the Petitioner offered information indicating that *People's Education* has a circulation of 3,000 copies throughout Georgia. The record, however, does not include comparative statistics or other evidence demonstrating that the readership for *Lelo* and *People's Education* elevates them to major media relative to other publications.

The Petitioner contends on appeal that Georgia has a population of almost five million and therefore the circulation numbers of *Lelo* and *People's Education* signify major media. He presents a “Country Report” that discusses Georgia’s “newspaper market.” This report states that “only ten dailies have significant circulation and readership,” but *Lelo* and *People's Education* are not among those identified.<sup>1</sup> Nor are these newspapers mentioned in the list of popular Georgian newspapers he offered from Media Landscapes. In addition, the Petitioner submitted a list of Georgian sports websites from www.top.ge ranking “Lelo.ge (http://lelo.ge)” at 12th, but he has not demonstrated the significance of this Internet ranking or explained how such information reflects status as major media. Furthermore, the record includes information about Georgia news media from PressReference.com. This information states that “during Communist rule” (prior to 1991) “*Lelo* sports newspaper had a circulation of 120,000,” but the articles about the Petitioner are not from that time period. The Petitioner’s evidence is not sufficient to show that the articles about him in *Lelo* and *People's Education* were in major media. Based on the foregoing, he has not established that he meets this criterion.

*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 record includes a June 2017 letter from [redacted] general secretary of [redacted] listing weightlifting tournaments at which the Petitioner acted as a chief or side referee from April 2013 until July 2015. In addition, the Petitioner submitted a [redacted] 2013 article in *Lelo* introducing him as a weightlifting referee, but this article did not discuss the events he refereed or the specific nature of his activities. With the appeal, the Petitioner provides minutes from the [redacted] 2013 [redacted] Executive Committee Meeting. These meeting minutes reflect a “[d]iscussion of the young referee’s nomination” in which the Petitioner’s appointment as a referee was approved. The aforementioned documentation, however, does not describe the duties of a referee to demonstrate whether they involve judging the work or skills of competitors as opposed to enforcing the rules of a tournament and ensuring the participants’ safety. Nor has the Petitioner shown through other evidence, such as official competition rules for the tournaments listed in the [redacted] letter, that his service as a “referee” at those tournaments equated to participation as a “judge” of the work of others. Without further evidence that

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<sup>1</sup> The report states: “Tbilisi-based dailies *Resonance* and *24 Hours* lead the list of the so-called serious press. *Kviris Palitra* is the most popular weekly. Other popular national newspapers, *Alia*, *Akhali Taoba*, and *Assaval-Dasavali*, have less rigorous ethical standards. Weekly regional newspapers include *Batumelebi*, *Akhali Gazeti*, *Guria News*, *Kakhetis Khma*, and *Samkhretis Karibche*.”

the Petitioner's refereeing duties involved judging the work of others, such as awarding points or choosing the ultimate winner, he has not met 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).

In order to meet this criterion, a petitioner must establish that he has made original contributions of major significance in the field. For example, a petitioner may show that his 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 in the field. Here, we will address the Petitioner's arguments on appeal and determine whether he has demonstrated original contributions of major significance in the field consistent with this regulatory criterion.

The Petitioner contends that his activities have been "recognized as a contribution of major significance to the field by champions and leading experts in the sport of weightlifting." He submits recommendation letters to demonstrate his eligibility for this criterion. These letters generally praise the Petitioner's weightlifting skills and refer to various awards he received during his weightlifting career.<sup>2</sup> For example, [redacted] president of [redacted] Program, stated that the Petitioner is "very talented and highly decorated weightlifter from Georgia." [redacted] further indicated that the Petitioner "received national and international recognition in 2007 when he won a silver medal at the [redacted]." In addition, [redacted] a coach at [redacted] Program, wrote that the Petitioner has "demonstrated the very highest achievements in the field of [redacted] weightlifting and made a contribution of major significance to the development of this sport." Although both authors indicate that the Petitioner is a respected athlete, they did not provide specific examples of how he has developed or contributed to his sport outside of winning awards. The fact that he has received nationally recognized weightlifting awards is not sufficient evidence to demonstrate original contributions of significance in the field.<sup>3</sup>

The record also contains a letter from [redacted] lead coach for [redacted] stating that the Petitioner has "undoubtedly risen to a level above nearly all others in the field of weightlifting, as demonstrated by his consistent track record winning top competitions in weightlifting." [redacted] also provided a summary of the Petitioner's awards and asserted that "I am positive that [the Petitioner's] athletic achievements represent a significant contribution to the field of weightlifting due to his particular system and techniques, which allowed him to compete successfully as a professional weightlifter." However, [redacted] did not provide additional information regarding the Petitioner's system and techniques to explain their originality, or offer specific examples of how they have been of major significance in the field.

Having athletic skills is not in-and-of-itself a contribution of major significance, unless a petitioner shows that he has used those skills to remarkably impact or widely influence the field. Here, the

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<sup>2</sup> While we discuss a sampling of letters, we have reviewed and considered each one.

<sup>3</sup> The regulations include a separate criterion for awards at 8 C.F.R. § 204.5(h)(3)(i), discussed above. Consistent with the regulatory requirement that a petitioner meet at least three separate criteria, we will generally not consider evidence relating to the awards criterion to satisfy this one.

Petitioner has not made such a showing through his recommendation letters or other corroborating evidence. While several of the letters include the terms “contributions” and “major significance,” they do not contain detailed, probative information that identify the Petitioner’s original contributions and explain their major significance in the field. Letters that specifically articulate how a petitioner’s contributions are of major significance in the field and his impact on subsequent work add value.<sup>4</sup> On the other hand, letters that lack specifics and use hyperbolic language do not add value, and are not considered to be probative evidence that may form the basis for meeting this criterion.<sup>5</sup> Moreover, USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att’y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990). Without sufficient information and evidence demonstrating that his work constitutes original contributions of major significance in the field, the Petitioner has not 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.

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<sup>4</sup> *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* 8-9 (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html>.

<sup>5</sup> *Id.* at 9. *See also Kazarian*, 580 F.3d at 1036, *aff’d* in part 596 F.3d at 1115 (holding that letters that repeat the regulatory language but do not explain how an individual’s contributions have already influenced the field are insufficient to establish original contributions of major significance in the field).

*Matter of I-T-*

Cite as *Matter of I-T-*, ID# 3998382 (AAO Sept. 3, 2019)