



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

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

In Re: 6197943

Date: APR. 23, 2020

Appeal of Texas Service Center Decision

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

The Petitioner, a religious faith writer, 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 Texas Service Center denied the petition, concluding that the record did not establish that the Petitioner had a qualifying one-time achievement, or that he met at least three of the ten alternative evidentiary criteria, as required for this classification. The Director further determined that the Petitioner did not establish that his entry would substantially benefit prospectively the United States.

On appeal, the Petitioner submits additional evidence, asserts that the Director mischaracterized previously submitted evidence, and maintains that he is qualified for the benefit sought.

The petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). The Administrative Appeals Office (AAO) reviews the questions in this matter *de novo*. *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we agree with the Director's determination and 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 stated on the Form I-140, Immigrant Petition for Alien Worker, that he is a "religious faith writer." Where asked to provide information about his proposed employment, he indicated that he intends to "continue research & writing concerning issues of faith, man's spiritual beliefs and impacts on persons with disabilities." On appeal, he claims that his area of extraordinary ability is "charitable and humanitarian works" and that his writings are part of his overall mission to serve those with mental and physical disabilities.

A. One-Time Achievement

The regulation at 8 C.F.R. § 204.5(h)(3) states that a petitioner may submit evidence of a one-time achievement that is a major, internationally recognized award. The Petitioner states that he is the recipient of the [redacted] medal and that this honor is a qualifying one-time achievement.

According to the submitted evidence regarding the [redacted], most of which was sourced from *Wikipedia*,¹ it is "an award conferred by the [redacted]" 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 Badasa v. Mukasey*, 540 F.3d 909 (8th Cir. 2008).

¹ *Wikipedia* is an online, open source, collaborative encyclopedia that explicitly states it cannot guarantee the validity of its content. *See General Disclaimer, Wikipedia* (last visited April 21, 2020), https://en.wikipedia.org/wiki/Wikipedia:General_disclaimer.

The record demonstrates that the Petitioner's [redacted] medal was conferred by Pope [redacted] and bestowed by the Archbishop of the [redacted], Kenya in 1999. The record indicates that the Petitioner received the award based on his leadership in operating the [redacted] School for children with mental and physical challenges, located in the [redacted] district. The Petitioner notes that his award received media coverage from a Kenyan newspaper and emphasizes that other recipients have included Mother Teresa "and others who have been similarly extraordinary in their ability to engage in charitable and humanitarian works." The Petitioner previously submitted a screenshot of *Wikipedia's* incomplete list of recipients of the [redacted] as well as *Wikipedia* biography pages for select prior recipients.

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, the Petitioner did not present evidence demonstrating that the [redacted] awards are covered by international media, are recognized by the general public, or garner attention comparable to other major, globally recognized awards similar to the Nobel Prize. Accordingly, the Petitioner has not demonstrated that he meets the requirements of a one-time achievement.

B. Evidentiary Criteria

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).

The Director determined that the Petitioner submitted evidence relating to five of the ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), and that he satisfied one of those criterion, relating to authorship of scholarly articles at 8 C.F.R. § 204.5(h)(3)(ii). The record reflects that the Petitioner authored two books, [redacted] and [redacted] and provided sufficient evidence to establish the scholarly nature of his publications.

The Director determined, however, that the Petitioner did not satisfy the four remaining claimed criteria related to his receipt lesser nationally or internationally recognized awards, published materials

about him, original contributions of major significance, and performance in a leading or critical role for organizations or establishments that have a distinct reputation. See 8 C.F.R. § 204.5(h)(3)(i), (iii), (v), and (viii). On appeal, the Petitioner contends that he meets the criteria relating to lesser nationally or internationally recognized awards and published material about him, which will be discussed below. The Petitioner does not contest the Director's determination that he did not satisfy the original contributions or leading or critical role criteria, and therefore we deem these issues to be waived. See, e.g., *Matter of M-A-S-*, 24 I&N Dec. 762, 767 n.2 (BIA 2009).

After reviewing all of the evidence in the record, we agree with the Director's conclusion that the Petitioner did not satisfy at least three evidentiary 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)

In order to fulfill this criterion, the Petitioner must demonstrate his receipt of lesser nationally or internationally recognized prizes or awards for excellence in his field of endeavor. Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field include, but are not limited to, the criteria used to grant the prizes or awards, the national or international significance of the prizes or awards in the field, and the number of awardees or prize recipients as well as any limitations on competitors.²

The Petitioner claims that his [redacted] medal, at a minimum, should be considered a lesser internationally recognized prize or award for excellence and contests the Director's determination that the award appears to be "local in nature." While it appears that the [redacted] [redacted] is an internationally recognized honor within the Roman Catholic community, bestowed on those of Catholic faith by the Pope, the record does not establish that it is awarded "for excellence" or that it is intended for those in the Petitioner's field of endeavor, or in any particular field of endeavor.

The Petitioner provided ample evidence of his receipt of the [redacted] but, as noted by the Director, there is little probative information in the record regarding the award or the criteria used for selection of recipients. The Petitioner provided the *Wikipedia* entry for the award and the *Wikipedia* biography pages for some prior recipients. For the reasons already discussed, information from *Wikipedia* can be accorded little, if any, evidentiary weight. Nevertheless, we note that the submitted *Wikipedia* biographies submitted do not support a finding that the award is given for excellence in the Petitioner's field of endeavor. For example, recipients have included an American businessman and sports franchise owner who received the award for "generosity to the Catholic Church" and a Filipino musician and composer who received the award for "his many contributions in the field of religious themed compositions and sacred works." Several of the biographical entries for previous winners simply mention that they received the award for "service to the Roman Catholic Church."

² See USCIS Policy Memorandum PM 602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14 6* (Dec. 22, 2010), <http://www.uscis.gov/legal-resources/policy-memoranda>. (indicating that an award limited to competitors from a single institution, for example, may have little national or international significance).

On appeal, the Petitioner submits a new letter, from Most Rev. [redacted] current Archbishop of the [redacted] who states that the [redacted] “is awarded by the Pope through a confidential consultative process and does not in any way involve the awardee until the evaluation process assessment.” However, this statement does not provide sufficient insight into the process or criteria for bestowing the award to establish that it is prize or award for excellence in the Petitioner’s field of endeavor. Accordingly, the Petitioner has not established that he meets this criterion.

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)

The Director determined that the Petitioner did not meet this criterion because he did not submit evidence of published material that appeared in professional or major trade publications or other major media. The Petitioner provided the following evidence:

- A captioned photograph (credited to “Standard Correspondent”) from an unidentified publication, indicating that the Petitioner was conferred as a Catholic church elder after receiving the [redacted] gold medal.
- An article titled [redacted] from an unidentified publication.
- An article titled [redacted] from an unidentified publication.
- A newspaper article titled [redacted] dated [redacted] 1996.
- An article titled [redacted] published in [redacted] 2011 edition of *American Ideals*.
- A review of the Petitioner’s books by [redacted] that appeared on the website [redacted]

We agree with the Director’s determination that the Petitioner did not submit sufficient evidence to meet this criterion. The article titled [redacted] is about the Petitioner but the submitted newspaper clipping does not identify the name of the publication in which it appeared or the date of publication. The article titled [redacted] is also about the Petitioner and relates to his work, but the full name of the publication cannot be determined based on the submitted evidence.

Regarding the article [redacted] we note that, apart from the title and a captioned photograph that identifies the Petitioner, the text of article is illegible and we cannot determine the title or date of the publication or the contents of the article to determine whether it is about the Petitioner and relates to his work.

The article published by *American Ideals* is about the Petitioner; however, the record does not establish that this magazine, published by the non-profit organization American Ideals Foundation, Inc., is a qualifying publication. According to the magazine’s editorial notes, American Ideals Foundation was established to “put the arts to use in honoring the sacrifices made by veterans and their families and enhancing the quality of life for young artists and children with special needs.” It appears that the magazine is distributed to those who are dues-paying members of the foundation, but it is unclear

whether it has a wider audience. Based on the information provided, we cannot determine that *American Ideals* is a professional publication, major trade publication or other major media.

We note that the submitted book review is not about the Petitioner and was not accompanied by evidence that the reviewer's personal website qualifies as a major trade publication, professional publication or other major media. Finally, we cannot determine that the captioned photograph, although it briefly mentions the Petitioner, is published material about him and his work. The clipping of the photograph does not identify the title or date of the publication. Further, it is unclear that the photograph accompanied an article, or whether the photograph alone appeared in the publication.

On appeal, the Petitioner states that “[t]he newspaper in which article was published, *The Standard* ... has a 48% market share in Kenya with a circulation of 74,000” and qualifies as major media. However, we cannot determine to which newspaper article the Petitioner is referring. As discussed, the name of the publication did not appear on any of the submitted newspaper clippings. We note that the above-referenced photograph is credited to “Standard Correspondent.” However, as discussed, a photograph of the Petitioner is not sufficient to meet this criterion and the photograph was not accompanied by an article or other required information such as the date of publication. Further, the circulation statistics cited by the Petitioner were obtained from *The Standard's* *Wikipedia* page (a copy of which is also submitted on appeal). The Petitioner has therefore not submitted probative evidence demonstrating that *The Standard* qualifies as major media in Kenya based on its circulation relative to other publications.

For the foregoing reasons, the Petitioner has not submitted evidence of published materials that meet all elements of this evidentiary 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 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).

Since the identified basis for denial is dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the Petitioner's appellate arguments regarding whether his entry would substantially benefit prospectively the United States, as required by section 203(b)(1)(A)(3) of the Act. *See INS v.*

Bagamasbad, 429 U.S. 24, 25 (1976) (“courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach”); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

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.

ORDER: The appeal is dismissed.