U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 6828587

Date: FEB. 4, 2020

Appeal of Texas Service Center Decision

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

The Petitioner, an acrobatic gymnastics 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 Texas Service Center denied the petition, concluding that the Petitioner met only one of the ten initial evidentiary criterion for this classification, of which he must satisfy at least three.

On appeal, the Petitioner asserts that he meets at least three of the initial evidentiary criteria and is otherwise qualified for the benefit sought.

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). 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).

II. ANALYSIS

The Petitioner has been employed as a head coach at [redacted] in Louisiana since 2015 and previously worked as an acrobatic gymnastics coach in [redacted] from 2001 until 2014. He completed his Bachelor of Sports and Master of Sports degrees at the [redacted] Academy in [redacted] with concentrations in acrobatics coaching and sports psychology. He also earned professional qualification certificates in physical education, sports management, and sports journalism.

In denying the petition, the Director determined that the Petitioner did not claim or submit evidence of a qualifying one-time achievement and that he met only one of the ten initial evidentiary criteria at 8 C.F.R. §§ 204.5(h)(3)(i)-(x). On appeal, the Petitioner maintains that he presented evidence that he received a major, internationally recognized award, and, in the alternative, that he meets five additional alternate criteria.

A. Major, Internationally Recognized Award

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. On appeal, the Petitioner maintains that he demonstrated the receipt of a major, internationally recognized award "as his coaching led multiple athletes to win World Championships, European Championships, and World Cup medals." He also provides evidence demonstrating that the world championship is the highest level of competition in the sport of acrobatic gymnastics, which is not yet included in the summer Olympic Games.

The Petitioner maintains that "he should be evaluated under the comparable evidence standard based on the achievements of the athletes he has coached." The regulatory provision at 8 C.F.R. § 204.5(h)(4) provides petitioners the opportunity to submit comparable evidence to establish a petitioner's eligibility, if it is determined that the standards described in 8 C.F.R. § 204.5(h)(3)(i)-(x) do not readily apply to the individual's occupation. However, there is no comparable evidence for the

one-time achievement of a major, internationally recognized award.[1] Therefore, the Petitioner cannot satisfy the requirements of this regulation by submitting evidence of awards won by athletes that he has coached and claiming that such evidence is comparable.

In light of the above, the Petitioner has not demonstrated a qualifying one-time achievement pursuant to the regulation at 8 C.F.R. § 204.5(h)(3).

B. 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 alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Director found that the Petitioner met the criterion relating to judging the work of others in his field at 8 C.F.R. § 204.5(h)(3)(iv). The Petitioner provided evidence establishing that he currently holds judging credentials issued by the International Gymnastics Federation (FIG) and has participated as a judge at acrobatic gymnastics competitions since 2009. Accordingly, we agree with the Director that this criterion was satisfied.

On appeal, the Petitioner asserts that he also meets the criteria related to lesser nationally or internationally recognized awards, memberships in associations requiring outstanding achievements, published materials about him and his work in the field, leading or critical roles in organizations or establishments with distinguished reputations, and high salary or other remuneration. After reviewing all of the evidence in the record, we find that the Petitioner has not established that he meets at least three of the initial 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)

The Petitioner provided evidence that he coached athletes in [redacted] who received medals at international acrobatic gymnastics events such as the European Championships, World Cup and World Age Group Championships, while athletes he has coached in the United States earned medals at the [redacted] in 2015 and in subsequent years.

We acknowledge that some of these awards qualify as nationally or internationally recognized awards in the sport of acrobatic gymnastics. However, as noted by the Director, 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 athletes that he coached do not satisfy this criterion.

On appeal, the Petitioner refers to one of our non-precedent decisions in support of his claim that "a coach can rely on comparable evidence if it can establish that he 'has coached athletes who have received nationally or internationally recognized awards for excellence in the sport while under (his)

[1] 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 12 (Dec. 22, 2010), https://www.uscis.gov/policymanual/HTML/PolicyManual.html.

instruction.'" The referenced decision was not published as a precedent and therefore does not bind USCIS officers in future adjudications. *See* 8 C.F.R. § 103.3(c). Non-precedent decisions apply existing law and policy to the specific facts of the individual case, and may be distinguishable based on the evidence in the record of proceedings, the issues considered, and applicable law and policy. We also note that the cited non-precedent decision involved a petitioner seeking to classify a beneficiary as an O-1 nonimmigrant and was therefore not adjudicated based on the same law and policy applicable to this immigrant petition.

The Petitioner claims that he has also received nationally recognized awards for coaching that qualify under this criterion. He provides evidence that he was recognized by USA Gymnastics as the 2018 [redacted] Coach of the Year. However, he filed this petition in December 2015. The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1). Therefore, he cannot establish his eligibility under this criterion based on an award he received in 2018, even if we were to determine that it otherwise satisfies all elements of this evidentiary criterion.

In addition to the above-referenced coaching award, the Petitioner maintains that he has received multiple national "Coach of the Year" awards in [redacted]. In support of this claim, the Petitioner submits a letter from [redacted] General Secretary of the [redacted], who states that "[h]e was awarded many times as the Coach of the Year by the [redacted] between 2008-2014." This letter was accompanied by photographs of five award plaques, including: [2]

- A plaque issued by the Republic of [redacted] Ministry of Youth and Sports, recognizing the Petitioner as "Coach for 2013" in acrobatic gymnastics
- A plaque issued by the [redacted] recognizing the Petitioner as "Coach for 2011"
- A plaque from the Ministry of Physical Education and Sports, recognizing the Petitioner as "Acrobatic Gymnastics Coach for 2011"
- A plaque from the [redacted] recognizing the Petitioner for "Outstanding Achievements" in 2009

The Petitioner asserts that "[t]hese coaching awards are unequivocally the national level awards as they were awarded by the [redacted] government and the [redacted] – the governing body of the sport in [redacted]."

In determining whether a petitioner has received a qualifying nationally recognized award, 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 awards or prizes; the national or international significance of the awards or prizes in the field; and the number of awardees or prize recipients as well as any limitations on competitors.[3] Here, while the Petitioner indicates that four of the awards submitted were issued by [redacted] national sports associations or federations, the evidence submitted is insufficient to establish that any of these are awards are nationally recognized awards for excellence in the Petitioner's field. The Petitioner did not provide any background information from the awarding entities regarding the purpose of the awards or the criteria used to grant

[2] The record reflects that the fifth plaque was awarded by [redacted], which was the Petitioner's employer prior to his relocation to the United States.

[3] *See* USCIS Policy Memorandum PM 602-0005.1, *supra* at 6.

them, the number of recipients, or the national significance of the awards. The fact that several of the awards were issued by a national-level entity does not establish that the award itself is a nationally-recognized prize as required by the plain language of the regulation.

Finally, the Director acknowledged that the Petitioner submitted testimonials from the [redacted] indicating that he had received awards as a competitive athlete in acrobatic gymnastics, but emphasized that he did not submit supporting evidence documenting the awards.[4] We agree with the Director's determination that the Petitioner has not sufficiently documented his receipt of nationally recognized awards or prizes as a competitive athlete. The record contains a letter from the [redacted] indicating that the Petitioner, between 1985 and 2001, "has been a multiple champion and a medalist from State championships and tournaments in the types of men's pair, mixed pair and men's foursomes at different ages." Another letter from [redacted] indicates that the Petitioner won a total of 20 gold and silver medals in junior, cadet, youth and adult acrobatic gymnastics events between 1992 and 1998, but does not identify the specific competitions where he medaled. The latest letter from [redacted] submitted on appeal, indicates that the Petitioner "won many medals from the [redacted] National Championships and meets" and "was champion in Men's Pair, Mixed Pair and Men's Four."

These letters do not consistently detail the Petitioner's competitive results, identify the specific events in which he competed, and, as noted by the Director, were not accompanied by documentary evidence of the awards or medals he received or other independent evidence, such as official event results. In addition, we acknowledge that the Petitioner was awarded the title "Master of Sport" in 1998, but the record does not contain any additional information regarding the basis for granting this distinction and therefore did not establish that it is considered to be a nationally or internationally recognized award for excellence in his field. On appeal, the Petitioner has not offered any additional evidence of awards and prizes that he received as a competitive athlete on appeal or pursued a claim that he meets this criterion based on his athletic achievements.

Therefore, 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)

The Petitioner claims that he meets this criterion based on his professional membership with USA Gymnastics and based on his qualification "as a member of the select group of FIG International Judges." In order to satisfy this criterion, the Petitioner must show that he is a member of an

[4] 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 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.

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]

With respect to the Petitioner's USA Gymnastics Professional Membership, the record indicates that this membership category is for those participating in USA Gymnastics-sanctioned events as competitive coaches, judges, and meet directors. Professional members are required to undergo a background check every two years, complete an annual Safe Sport Course, and complete a USA Gymnastics Safety Certification every four years. In addition, professional members who coach at USA Gymnastics-sanctioned events must complete the U100: Fundamental Gymnastics Instruction course offered by USA Gymnastics University. Finally, professional members with an acrobatic gymnastics designation are required to abide by and be bound by USA Gymnastics Acrobatics Gymnastics Rules & Policies, as well as the organization's overall policies and ethical standards.

The Petitioner maintains that, collectively, these membership requirements establish that a USA Gymnastics professional membership is one that requires outstanding achievements of its members. However, he does not explain how completing the designated courses and passing a background check demonstrates that professional members must demonstrate outstanding achievements. The evidence submitted suggests that any applicant for professional membership who complies with these requirements and passes the background check, regardless of their achievements in the sport, would be granted membership. Also, the Petitioner has not demonstrated that prospective professional members' achievements are judged by national or international experts in the sport.

The Petitioner also provided a copy of the FIG "General Judges' Rules" in support of his claim that his Brevet Level 2 judge qualification from FIG satisfies this criterion. According to these rules "[t]he FIG is responsible to provide educational courses and a fair examination process to achieve the Brevet level of Certification," and "[t]he FIG International Judges' Brevet is issued for the judge's entire career."

The submitted rules indicate that pre-requisites for the FIG Brevet judging credential include: being a member of a national gymnastics federation in good standing and affiliated to FIG; holding the citizenship of the gymnastics federation they represent; being designated by the national federation to participate in the FIG Intercontinental or International Judges' course; having the ability to speak at least one FIG language and having a working knowledge of the English language; and paying a fee. Persons with national judging experience who meet these requirements are eligible to take the FIG International course to qualify for the level 2, 3, or 4 Brevet Category. Level 2 is achieved by obtaining "very good" and "good" results on a four-part examination in the judge's discipline following completion of the course and is maintained by successfully judging a minimum of three international competitions during a cycle.

The Petitioner maintains that the evidence demonstrates that "FIG requires an outstanding level of achievement and expertise to be considered a FIG international judge" and is "merited only by the top

[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).

judges in the world." We agree that the Petitioner was required to demonstrate his expertise in FIG's judging rules in order to pass his Brevet examinations. However, the record does not establish that qualifying to take the FIG judging courses requires prospective judges to demonstrate outstanding achievements, or that completion of the requisite FIG course and obtaining passing results on the course-end examinations is an outstanding achievement in and of itself. Therefore, we find that the Petitioner's status as a FIG Brevet category 2 judge does not satisfy 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. On appeal, the Petitioner asserts that "USCIS completely ignored the fact that major [redacted] sports media published articles about [the Petitioner]." The Petitioner specifically references six articles published in [redacted] between 2009 and 2013.

One article, titled [redacted] was published by the website *Sportal* (Sportal[redacted]) in 2011. The Petitioner provided data from *SimilarWeb* indicating that this website ranks 17th in [redacted] overall, as well as a screenshot from the website *All You Can Read* indicating that Sportal[redacted] is the top ranked [redacted] sports website. While it appears that this website may qualify as major media in [redacted], the submitted article is not about the Petitioner; it was written about the 2011 World Cup in acrobatic gymnastics, which was to be held in Italy shortly after the publication of the article. The article states that a four-man team coached by the Petitioner would be competing and mentions some of their recent competition results, but the Petitioner is not otherwise mentioned in the article. The article also discusses a [redacted] mixed pair who would be competing in the World Cup event and the performance of [redacted] athletes in the sport's recent European Championships. Articles that are not about a petitioner do not fulfill 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 regarding a show are not about the actor). Further, we note that author of the article is not identified, and the article appears to be an English translation, but is not accompanied by a copy of the article in the [redacted] language or the required certification from the translator.[6]

The Petitioner also submits a 2013 print newspaper article titled [redacted] and indicates that the source of the article is *19min*[redacted]. The article does not identify an author, and we note that although the Petitioner provided a translation, the translator indicates that they translated only a "fragment of a newspaper article." The translated portion of the article indicates that the [redacted] men's four team won the bronze medal in the World Cup tournament and includes a quote from the Petitioner, identifying him as the trainer of the medal-winning team. Because the article was not fully translated, we cannot determine that the article is about the Petitioner. Further,

[6] 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.*

the Petitioner did not provide supporting evidence indicating that the print edition of this publication qualifies as major media.[7] The submitted *SimilarWeb* data for the online version of the newspaper indicates that *19min.* ranks 1,161 in

The Petitioner provided a May 2013 online article titled ' published on the website *Gong.* As with the previous article, there is no author identified. The article includes one quote from the Petitioner regarding the performance of the bronze-medal winning men's team, but we cannot conclude that the article, which has not been translated in its entirety, is about the Petitioner, who is mentioned only once. Therefore, while the supporting evidence indicates that *Gong.* likely qualifies as major sports media in , the article does not satisfy all elements of this criterion.

A 2009 print newspaper article from *168 Hours* titled includes an interview with the Petitioner, and identifies the author of the material. However, the Petitioner has not provided sufficient evidence to establish that this publication, described as an "informational weekly" newspaper is a professional publication, major trade publication or other major media in The Petitioner submitted a screenshot from the newspaper's website which states that it has a circulation of 37,300 copies, but did not provide evidence showing how this circulation compares to other publications.

The Petitioner also submitted a November 2011 online article titled published by *Viasport.* The article is about a junior team that had recently earned a medal in the European Championships in acrobatic gymnastics. It mentions the Petitioner as the coach who invited the team members to form a group and includes a quote from him praising one of the young gymnasts. The article is not about the Petitioner, does not identify the author, and is not accompanied by any evidence that *Viasport* qualifies a professional publication, major trade publication, or other major media in

Finally, the Petitioner submitted an April 2013 online article titled ' published by *TopSport* (Topsport. . The article does not identify the author, and the translator only provided an English translation of the first two paragraphs of the six-paragraph article. The Petitioner is mentioned in passing as the coach of the boys' junior team, but the article is not about him. Finally, although the Petitioner submitted supporting evidence from *SimilarWeb* and *All You Can Read*, it does not establish that *TopSport*, which ranks 15th among sports websites, is considered to be a major medium.

We also note that the Petitioner submitted articles about him and his work that appeared in the Texas daily newspapers *Kilgore News Herald* and *Longview News-Journal.* However, the Petitioner has neither claimed nor provided evidence that these publications qualify as major media in the United States. Rather, these appear to be local or regional publications.

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

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[7] *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 7 (indicating that evidence of published material in professional or major trade publications or in other major media publications should establish that the circulation (on-line or in print) is high compared to other circulation statistics).

Evidence that the individual has commanded a high salary or other significantly high remuneration for services, in relation to others in the field. 8 C.F.R. § 204.5(h)(3)(ix)

To establish eligibility under this criterion, the Petitioner must present evidence showing that he has earned a high salary or significantly high remuneration in comparison with those performing similar services in the field. *See Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994) (considering a professional golfer's earnings versus other PGA Tour golfers); *see also Skokos v. U.S. Dept. of Homeland Sec.*, 420 F. App'x 712, 713-14 (9th Cir. 2011) (finding salary information for those performing lesser duties is not a comparison to others in the field); *Grimson v. INS*, 934 F. Supp. 965, 968 (N.D. Ill. 1996) (considering NHL enforcer's salary versus other NHL enforcers); *Muni v. INS*, 891 F. Supp. 440, 444-45 (N. D. Ill. 1995) (comparing salary of NHL defensive player to salary of other NHL defensemen).

The Petitioner provided copies of his IRS Forms W-2 indicating that he earned $32,092 in 2015,[8] $40,667 in 2016, and $42,000 in 2017. As noted, the petition was filed in 2015 and the Petitioner must establish his eligibility as of the date of filing. On appeal, the Petitioner submits salary data for gymnastics coaches from various sources including Glassdoor, CareerOneStop, and Salary Expert and asserts that he has demonstrated that his compensation "is at the higher level of the compensation spectrum."

The supporting evidence does not support the Petitioner's claim. The provided salary data from Glassdoor indicates that the national average base pay for a gymnastics coach is $36,251, but it also lists a $45,000 average for a "head gymnastics coach" which is the role the Petitioner has filled for his employer since 2015. The data provided from CareerOneStop indicates a median salary of $36,180 for coaches in the Petitioner's geographic area in Louisiana, with coaches with earnings at the 75th percentile earning $50,270 and the top 10% of coaches earning at least $162,280. Finally, the data submitted from Salary Expert indicates that, in Louisiana, the average salary for a senior level gymnastics coach with at least eight years of experience is $42,069. Overall, the information provided reflects that the Petitioner's past earnings have been close to the average for a coach in his area and with his level of experience. He has not established that he has commanded a high salary or other significantly high remuneration in relation to others in the field.

C. O-1 Nonimmigrant Status

We note that the record indicates that the Petitioner has previously been granted 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 1-140 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), *affd*, 905 F. 2d 41 (2d. Cir. 1990). Furthermore, our authority over the USCIS service centers, the office adjudicating the nonimmigrant

[8] The Petitioner was granted O-1 status in 2015 and worked for two different employers during that year. As a result, we acknowledge that his 2015 W-2 may not reflect a full year of earnings.

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. Further, we find that, although the Petitioner met the judging criterion at 8 C.F.R. § 204.5(h)(3)(iv), he did not establish that he meets the criteria relating to nationally or internationally recognized awards, memberships in associations, published materials, or high salary or other remuneration. We acknowledge that the Petitioner claims eligibility under one additional criteria on appeal, relating to leading or critical roles with organizations or establishments that have a distinguished reputation at 8 C.F.R. § 204.5(h)(3)(viii). However, as the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), we reserve this remaining criterion.[9] In addition, 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 evidence demonstrates that the Petitioner is highly educated in his field and that his coaching and judging expertise is valued by the acrobatic gymnastics community in both the United States and [redacted]. However, 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.

[9] *See INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach).