



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

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

In Re: 6081499

Date: FEB. 12, 2020

Appeal of Nebraska Service Center Decision

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

The Petitioner, a bodybuilder, seeks classification as an alien 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 denied the petition, concluding that the record did not establish that the Petitioner had satisfied at least three of ten initial evidentiary criteria, as required. The matter is now before us on appeal.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. 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)(A) of the Act makes immigrant visas available to aliens 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 they 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 has competed nationally and internationally as an amateur bodybuilder in [redacted] and elsewhere in South America. The Petitioner states his intention to continue competing, but it is not clear to what extent, and in what capacity, he would be employed in bodybuilding. In the past, he has competed as an amateur, and the record contains no documentary evidence that he has ever been employed in bodybuilding. At the time of filing, he indicated that he sought to compete in [redacted]. In response to a request for evidence, a gym in [redacted] indicated that the Petitioner sought to compete on behalf of that establishment, but the Petitioner has since returned to [redacted].

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 Petitioner claims to have met four criteria, summarized below:

- (i), Lesser nationally or internationally recognized prizes or awards;
- (ii), Membership in associations that require outstanding achievements;
- (iii), Published material about the alien in professional or major media; and
- (viii), Leading or critical role for distinguished organizations or establishments.

The Director found that the Petitioner had not met any of the evidentiary criteria, partly (but not entirely) because of perceived deficiencies in translated documents in the record. On appeal, the Petitioner asserts that the translations were adequate, and that he meets the four claimed evidentiary criteria. After reviewing all of the evidence in the record, we conclude that the Petitioner has not satisfied any of the 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)*

The Petitioner stated that he “has won countless awards for the International Federation of Bodybuilding and Fitness (IFBB)” and its member body, the [redacted]. [redacted] As evidence, he submitted photographs of himself at competitions, both with and without medals; close-up photographs of those medals; copies of “Certificates of Athletic Achievement”; copies of foreign-language certificates; and web printouts.

The Director found the exhibits to be deficient in various ways. For example, the “Certificates of Athletic Achievement” do not include the Petitioner’s name. The Director also stated that the translations of the foreign-language certificates do not meet all the requirements set forth at 8 C.F.R. § 103.2(b)(3). On appeal, the Petitioner contends that he submitted adequate evidence to show his receipt of the claimed prizes.

The Director was correct that some pieces of evidence do not, by themselves, document the Petitioner’s receipt of prizes or awards. But when considering the record as a whole, the various submitted materials are sufficient to establish, by a preponderance of the evidence, that the Petitioner received the claimed prizes. The pieces fit together into a consistent and coherent whole, and the Director did not cite any reason to question the credibility of the submitted evidence.

Also, the Director did not specify how the English translations were deficient. The Director emphasized that such translations must be certified as complete and accurate, but the translations in the record appear to include all the required elements. The translator certified that he was “fluent” rather than “competent,” but those terms appear to be essentially synonymous in the context of translating documents.

Documenting receipt of prizes, however, fulfills only part of the requirements for the criterion. The Petitioner must also establish that the prizes are nationally or internationally recognized. The Director determined that the Petitioner had not established the national or international recognition of the claimed prizes.

On appeal, the Petitioner asserts that he “received . . . lesser nationally or internationally recognized prizes or awards,” but does not cite evidence of that claimed recognition. Previously submitted materials from IFBB and [ ] events, and printouts from IFBB’s own website, are not objective evidence of the recognition accorded to prizes awarded at IFBB and [ ] competitions.

The Petitioner has documented his receipt of prizes and awards for excellence in his field, but he has not established that they are nationally or internationally recognized.

*Documentation of the alien’s membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.*  
8 C.F.R. § 204.5(h)(3)(ii)

The Petitioner asserts that his membership in [ ] teams satisfies this criterion.

In the denial notice, the Director found that the Petitioner had relied on deficient translations and on photographs that do not establish membership in any association. On appeal, as above, the Petitioner maintains that the document translations conform to the regulatory requirements.

Review of the evidence indicates that the Petitioner is a member of the IFBB and its subsidiary [ ] but the record does not establish that either of those organizations, or any of their teams, require outstanding achievement as judged by recognized national or international experts. The president of the

[redacted] stated that the Petitioner “participated as an athlete of the national team,” but did not address the membership requirements of the organization or any of its teams.

The Petitioner has not documented membership in any association in the field that requires outstanding achievements as judged by recognized national or international experts.

*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)*

The Petitioner submitted several exhibits, all deficient for various reasons. A screen capture from YouTube shows that a video posted by [redacted] features an interview with the Petitioner. The Petitioner did not show that [redacted] YouTube channel constitutes major media. The Petitioner claimed “104.79 K Unique Web Visitors,” but that figure relates to total visits to [redacted] not to [redacted]’s YouTube channel. The video with the Petitioner had accumulated only 127 views between October 2016 and November 2017.

Printouts from several different websites list competition results. Because the Petitioner is one of many athletes listed, the printouts are not published material about him, and therefore we need not determine whether those websites constitute professional or major trade publications or other major media.

A headline in *El Mercurio* translates to [redacted]’ but the Petitioner’s name does not appear to be in the article. The Petitioner submitted a translation of the headline, but not of the article itself. The Petitioner did not show that this article is published material about him.

The Director identified several deficiencies in the Petitioner’s evidence, but on appeal, the Petitioner asserts only that the submitted translations were adequate.

The Petitioner has not submitted published material about him in professional or major trade publications or other major media, relating to his work in the field.

*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)*

To satisfy this criterion, the Petitioner must establish that he is or was a leader, or that he performed in a critical role. A title, with appropriate matching duties, can help to establish if a role is (or was), in fact, leading. 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*, 10 (Dec. 22, 2010), <http://www.uscis.gov/legal-resources/policy-memoranda>.

If the Petitioner claims to have performed in a critical role, the evidence must establish that the role is or was of significant importance to the standing of the organization or the outcome of its activities. *Id.*

The Petitioner claims to have performed in a leading and critical role for the [ ] “by competing and winning at . . . international tournaments” and by working as “a national bodybuilding instructor.” The Petitioner cites language from elsewhere in the above-cited memorandum, relating to reliance on “letters from individuals with personal knowledge of the significance of the alien’s leading or critical role.” The submitted letter (from the [ ] president), however, does not attest to such a role. The official simply listed events in which the Petitioner competed, and the Petitioner’s rankings in those events.

The Petitioner does not show how his competition results affected the [ ] and thereby amounted to a critical role. With respect to his “national bodybuilding instructor” title, the Petitioner has not established the role and duties associated with that title, or how his activities have affected the [ ] as a whole rather than the individual athletes whom he helped to train.

Furthermore, the Petitioner has not established that the [ ] has a distinguished reputation. As noted previously, much of the evidence about the [ ] comes from within the organization.

For these reasons, the Petitioner has not shown that he has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

### 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.

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.