



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

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

In Re: 4992052

Date: JAN. 7, 2020

Appeal of Nebraska Service Center Decision

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

The Petitioner, a water polo coach, 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 Petitioner did not satisfy any of the initial evidentiary criteria, of which she 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 claims to be an athletic instructor at the [redacted] Water Polo Club in [redacted] Kazakhstan.¹ Because the Petitioner has not indicated or established that she has received a major, internationally recognized award, she 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 determined that the Petitioner did not fulfill any of the initial evidentiary criteria. On appeal, the Petitioner does not specifically identify any erroneous conclusion of law or statement of fact for the appeal. Instead, the Petitioner submits additional documentation indicating eligibility under three criteria. After reviewing all of the evidence, we conclude that the record does not support a finding that the Petitioner 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).

In order to fulfill this criterion, the Petitioner must demonstrate that she received the prizes or awards, and they are nationally or internationally recognized for excellence in the field of endeavor.² 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.³

The record reflects that the Petitioner previously provided identification cards showing that she received a “rank” of [redacted] Republic of Kazakhstan” in 2009 and a “rank” of [redacted] Republic of Kazakhstan” in 2010.⁴ On appeal, the Petitioner

¹ See the Petitioner’s Form I-485, Application to Register Permanent Resident or Adjust Status, filed concurrently with her petition.

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), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html>.

³ *Id.*

⁴ We note that the U.S. Citizenship and Immigration Services 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

indicates that as evidence of a nationally recognized award, she submits an “[o]rder of the Minister of Culture and Sport of the Republic of Kazakhstan of October 28, 2014 detailing the standards and requirements for assignments of sports titles, categories and qualification[] categories” and “[b]ackground information on Republican Center for Legal Information of the Ministry of the Republic of Kazakhstan publishing the government orders.” Specifically, in order to receive the title, [redacted] of the Republic of Kazakhstan,” a participant on a team must place between first and eighth place at the Olympic Games, between first and sixth place at the World Championships, between first and third in the World Cup, first at the Asian Adult Games, or between first and third at the World Junior Championships. In addition, in order to receive the title, [redacted] of the Republic of Kazakhstan,” a participant on a team must place between first and fourth at the Russian Championships, between first and fourth at the Open Cup of Russia, first in the Asian Championships among juniors, between first and fourth at the World Junior Championship, or first at the Championship of Kazakhstan.

Although the Petitioner presents evidence regarding the assignment of sports titles and rankings, she did not demonstrate that the water polo field recognizes such titles and rankings as prizes or awards for excellence. Moreover, while the documentation reflects designation of rankings by the Minister of Culture and Sports of the Republic of Kazakhstan, the Petitioner did not show that such government-based titles are necessarily recognized by the field for excellence. In addition, as indicated above, a participant may obtain such ranking without receiving a nationally or internationally recognized prize or award for excellence, such as eighth place at the Olympic Games.⁵

Furthermore, the Petitioner did not establish which prizes or awards she received to achieve a [redacted] ranking. Specifically, the record contains photographs of medals without showing the names, finishes, and/or events. Although the Petitioner previously claimed that she received a “Medal” at the World Championship, Asian Swimming Championship, Asian Championship, Asian Water Polo Championship, the Petitioner has not sufficiently documented her receipt of the medals, where she placed, and the national or international significance of the medals.

Because the Petitioner did not demonstrate her receipt of nationally or internationally recognized prizes or awards for excellence in the field, she did not establish that she meets this criterion.

III. CONCLUSION

We find that the Petitioner does not satisfy the awards criterion. Although she submits evidence for two additional criteria on appeal, relating to memberships at 8 C.F.R. § 204.5(h)(3)(ii) and high salary at 8 C.F.R. § 204.5(h)(3)(ix), we need not reach these additional grounds. As the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), we reserve

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.

AFM ch. 22.22(i)(1)(C) (emphasis in original).

⁵ The Olympic Games only distribute gold, silver, and bronze medals for finishing first, second, and third, respectively. See <https://www.olympic.org/olympic-results> and incorporated into the record of proceedings.

these issues.⁶ Accordingly, 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 her 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 she 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). Although the Petitioner has competed and coached in the water polo area, the record does not contain sufficient evidence establishing that she is among the upper echelon in her field.

For the reasons discussed above, the Petitioner has not demonstrated her 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.

⁶ *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).