



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

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

In Re: 6081630

Date: JAN. 8, 2020

Appeal of Nebraska Service Center Decision

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

The Petitioner, a [redacted] trainer and 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 Nebraska Service Center denied the petition, concluding that the Petitioner met only one of the ten initial evidentiary criterion for this classification, of which she must meet at least three. The Petitioner subsequently filed a motion to reopen, followed by a combined motion to reopen and motion to reconsider. In both instances, the Director considered new evidence and affirmed the denial of the petition, determining that the Petitioner met only two of the ten initial evidentiary criteria.

On appeal, the Petitioner asserts that the submitted evidence satisfies up to five additional criteria and that she is eligible 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).

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

The Petitioner is a former [redacted] who competed on the Mexican junior national and national teams from 2002 until 2012. She retired from competitive [redacted] and began working as a coach and trainer in 2014.¹

A. Evidentiary Criteria

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). The Director found that the Petitioner met two of these evidentiary criteria, relating to lesser nationally or internationally recognized awards and participating as a judge

¹ We note that the U.S. Citizenship and Immigration Services 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.

AFM chapter 22.22(i)(1)(C) (Emphasis in original)

of the work of others in her field. On appeal, the Petitioner asserts that she also meets the evidentiary criteria relating to memberships, published materials, original athletic contributions of major significance, displays of her work at artistic exhibitions or showcases, and leading or critical roles for organizations that have a distinguished reputation.

Upon review, we will withdraw the Director's finding that the Petitioner submitted evidence to establish that she has participated, either individually or on a panel, as a judge of the work of others in the same or an allied field of specialization for which classification is sought. 8 C.F.R. § 204.5(h)(3)(iv). The Petitioner submitted a letter from [redacted] technical director of [redacted] [redacted] for the Mexican Federation of [redacted] who states that the Petitioner "became a certified judge in 2015." The record contains no additional evidence of her judging credentials, and, more importantly, no evidence that she had actually participated, either individually or on a panel, as a [redacted] judge at any competition or event as of the date of filing in January 2017. Accordingly, the Petitioner has not met this criterion.

However, as discussed below, we find sufficient evidence to establish that the Petitioner meets 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 Director determined that the Petitioner meets this criterion. The Petitioner submitted sufficient evidence to establish that she was a five-time medalist at the 2010 [redacted] Championships; a four-time medalist at the 2010 [redacted] Games; a gold medalist at the 2011 [redacted] Tournament; and a bronze medalist at the 2012 [redacted] Championships.

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 Director determined that the Petitioner did not meet this criterion. We agree with the Director that simply being a member of a national team in her sport, or a registered member of the sport's international federation at the "elite" level, does not satisfy this criterion. However, we find sufficient evidence that the Beneficiary satisfies this criterion based on her membership on the senior Mexican national teams that competed at the [redacted] Championships in 2009, 2010 and 2011, the selection process for which has been explained in detail by the president of the national federation for the sport.

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 Petitioner initially submitted copies of six print newspaper articles about her and her career as a [redacted] which appeared in the Mexican publications *El Tema*, *El Sol de Tampico*, and *La Afición* between 2010 and 2014. However, these articles were accompanied by only brief, partial English translations. 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.* In addition to lacking a full English translation, the evidence did not include information about the circulation or distribution of these newspapers and therefore did not demonstrate that any of them qualify as professional publications, major trade publications, or other major media.

Two additional articles about the Petitioner, published by the Mexican websites *elredactor.mx* and *movil.informador.mx*, were translated into English, but the articles are not accompanied by the Spanish language originals or the required certification from the translator, nor do the articles identify the author of the material. Further, the Petitioner did not submit evidence that these websites qualify as major media, major trade publications, or professional publications. Finally, the Petitioner submitted English-language articles published by [redacted] and the International Federation of [redacted] that mention the Petitioner's results in competitions. However, although she is referenced, the articles are not about the Petitioner and do not meet 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 about a show are not about the actor).

On motion, the Petitioner submitted additional articles about her that were published on the websites of *Milenio* (*milenio.com*) and *Medio Tiempo* (*mediotiempo.com*), and these were accompanied by full English translations. The Petitioner provided sufficient supporting evidence to establish that *Milenio* and *Media Tiempo* qualify as major media in Mexico and she meets this criterion based solely on these two articles.

Therefore, based on the foregoing, the Petitioner has established that she fulfills at least three regulatory criteria, and we will evaluate the totality of the evidence in the context of the final merits determination below.

B. Final Merits Determination

As the Petitioner has submitted the requisite initial evidence, we will evaluate whether she has demonstrated, by a preponderance of the evidence, her sustained national or international acclaim and that she is one of the small percentage at the very top of the field of endeavor, and that her achievements have been recognized in the field through extensive documentation. In a final merits determination, we analyze a petitioner's accomplishments and weigh the totality of the evidence to determine if her successes are sufficient to demonstrate that she has extraordinary ability in the field of endeavor. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. For the reasons discussed below, the Petitioner has not demonstrated her eligibility.

We first note that much of the evidence in the record pertains to the last few years of the Petitioner's career as a competitive [redacted]. Therefore, while the record reflects that she was a member of the Mexican junior and senior national [redacted] teams from 2002 until 2012, the record does

not support a finding that she enjoyed national acclaim in Mexico prior to the 2010 season, as most of her documented media coverage and awards were achieved within the 2010 to 2012 timeframe.²

During this period, Mexico won the team all-around gold in [redacted] at the 2010 [redacted] Championships and the Petitioner won four individual medals at this same event. The [redacted] Championships are described in the record as a “qualifier” for the [redacted] Games, but there is no evidence that the Petitioner competed for Mexico in those games. In that same year, the Petitioner also won three individual medals and the team all-around gold at the [redacted] Games, and competed in the [redacted] in Russia, where her highest placements were 42nd in [redacted] event, and 18th in the team event. In 2011, the Petitioner, received four medals (two gold, two silver) at the [redacted] International Tournament, and competed in the [redacted] in France, where the Mexican team finished 17th and the Petitioner ranked between 55th and 83rd in her individual events. The Petitioner won two bronze medals in 2012, and reported no competition results for 2013 or 2014, the year she retired from competition. The record reflects that she received some media attention in Mexico as a result of her athletic achievements between 2010 and 2012, and again when she officially retired from competition. However, the record does not establish that she consistently received major media coverage commensurate with sustained national or international acclaim. Although the Petitioner submitted more than 10 articles, as discussed, the evidence demonstrates that only two were published in major media.

A December 27, 2010, article published by Mexican sports media outlet, *Medio Tiempo*, shortly after the Petitioner’s impressive showing at the [redacted] Championships, stated that another Mexican [redacted] “has dominated the national sphere of [redacted] for some years” but noted that the Petitioner was emerging and may have an opportunity to compete as part of the two-member Mexican team in the [redacted] Games in 2011. The record does not reflect that the Petitioner was actually selected to compete at the 2011 [redacted] Games, or that she received any other national media coverage during her many years on the Mexican national team.

The Petitioner’s retirement from competition was marked by an article published by *Milenio*. The author notes that the Petitioner “gave part of her life to national [redacted]” and “triumphed in competitions like the [redacted] Games.” The article provides highlights from the Petitioner’s retirement celebration in her hometown, notes her transition to coaching at the training facility that hosted her celebration, and refers to her as “the greatest [redacted] from [redacted].” The record also includes an article published on the website of the Mexican National Commission of Physical Culture and Sport (gob.mx/conade) which indicates that the Petitioner was recognized by the commission and awarded a plaque at the opening ceremony of the 2014 Mexican National [redacted] Championship, shortly after her retirement. While the evidence shows that the Petitioner likely enjoyed sustained acclaim in her home state, and a few years of national acclaim as a competitive gymnast with medals in international competition between 2010 to 2012, the evidence does not establish that she enjoyed sustained acclaim or that she was among the small percentage of gymnasts at the very top of the field, even during the height of her competitive career.

² Counsel stated that the Petitioner “has a staggering collection of prize places just in international competitions of the highest level,” and “countless prize places at international competitions of lesser rank.” However, we can only evaluate those specific prizes or awards that are sufficiently documented in the record.

In addition to submitting evidence of her awards and media coverage earned as an athlete, the Petitioner submitted testimonial evidence that discusses her role on the Mexican national team and her standing in the sport of [redacted] in Mexico. For example, a letter from [redacted] of the Mexican [redacted] federation notes that the Petitioner “was considered the leading team member” and “was able to bring lots of acclaim to the field of [redacted] in Mexico.” [redacted] notes that she was known throughout Mexico for being “hard-working, relentless, and dedicated to excellence.” [redacted], president of the Mexican [redacted] federation, writes that the Petitioner “brought success to her state [redacted] by drawing attention and earning prestige for [redacted].” He credits the Petitioner with the “tremendous growth of the sport in her state” and with building a distinguished reputation for the [redacted], the center where she trained and later coached.

However, the record does not demonstrate that the Petitioner achieved sustained national or international acclaim or standing as one of the few at the top of her field by representing her home state and training center on the national team and enjoying success in national and international competitions. The record reflects that the Petitioner contributed to Mexican team podium finishes in several international events between 2010 and 2012 and was the top [redacted] from her home state of [redacted] for a period of time, but does not contain sufficient evidence to demonstrate that she earned sustained national acclaim through leadership of the national team. Nor does the evidence support a finding that her successes are recognized as contributing to the growth or success of the sport of [redacted] throughout Mexico.

The Petitioner also indicates that she made original contributions to the sport of [redacted] by designing and hand-painting the [redacted] apparatus for herself and for other [redacted]. For example, [redacted] a former member of the U.S. [redacted] team, praises the Petitioner’s artistic skills, noting that she herself had the Petitioner design and hand paint the [redacted] apparatus she used at the 2012 [redacted]. She praises the Petitioner’s “one of a kind” and “unique and detailed” designs. The Petitioner submitted letters from several other young [redacted] (and/or their parents and coaches) praising her ability to design and hand paint [redacted] and noting that “many [redacted] sold on the market have boring basic designs.” However, the record does not establish how the Petitioner’s hand-painted [redacted] are considered an original contribution of major significance in the sport as a whole, rather than perhaps impacting the artistic scores of a handful of athletes for whom the Petitioner designed [redacted]. Further, the record does not contain evidence that the Petitioner’s artistic contributions to the sport of [redacted] have been recognized at a level that contributed to her stature among those at the top of her field or resulted in sustained national or international acclaim. Rather, it appears that her contributions in this regard are limited to the design of [redacted] for other [redacted] with whom she has competed or trained, and the recognition she has received is similarly limited.

Turning to the Petitioner’s more recent activities as a coach, we find that the Petitioner did not submit sufficient evidence to establish that the short-lived national acclaim she enjoyed based on her athletic achievements has carried over to her new coaching career. The record reflects that she formally began coaching at [redacted] in 2014, and then relocated to the United States near the end of 2016.³ The

³ The Petitioner provided evidence that she accepted a coaching position with a California-based [redacted]

Petitioner submitted a letter from [redacted] head coach and director, [redacted] who states that the Petitioner has been the full time coach of gymnasts [redacted] and [redacted] since 2014, and credits her with both [redacted] membership on the Mexican national team. In her own statement dated December 28, 2015, the Petitioner named five [redacted] that she had coached, but did not include [redacted] among them. She identified [redacted] as receiving a 5th place finish at national championships and indicated that she had coached two members of the Mexican junior national team: [redacted] and [redacted]. Finally, the Petitioner submitted a letter on [redacted] letterhead, signed by [redacted], [redacted], [redacted] and [redacted], who state that the Petitioner “was part of the training team and a fundamental part that led us to obtain results in various national as well as international competitions.”

While the evidence indicates that [redacted] has a distinguished reputation as a [redacted] training center within [redacted] state, the record does not clearly demonstrate the Petitioner’s role in training or coaching specific athletes prior to coming to the United States, nor does it support her claim that she was recognized for holding a leading or critical role for [redacted]. In a letter dated November 2016, [redacted] identified the Petitioner simply as part of her coaching team but in a subsequent letter dated January 2019, stated that she was “the second most important coach at the [redacted].” She also stated that the Petitioner’s greatest success was “raising [redacted] and [redacted],” noting that “because of her effort and training talent they became members of the National Team.”

The Petitioner provided a letter from [redacted], who states that she trained and competed with the Petitioner when they were both members of the [redacted] State Team beginning in 2010, and that the Petitioner became her “one and only coach that actually helped me with my [redacted],” since 2014. [redacted] states that she achieved a 9th place finish at the [redacted] Championships in 2018 and that the Petitioner “deserves my prizes with me.” The letter was accompanied by evidence that the Mexican [redacted] team (which included [redacted] and [redacted]) was awarded the team gold medal at the 2018 [redacted] Games in [redacted] 2018, approximately 20 months after the Petitioner left Mexico. The record does not contain evidence of any other competitive results achieved by [redacted] or [redacted], particularly those they achieved while the Petitioner was claimed to be their coach. Further, as noted above, the Petitioner herself did not claim that she had coached [redacted]. Letters were submitted from additional [redacted] who claim that the Petitioner coached or trained them, but they are not supported by corroborating evidence that she formally coached these athletes or gained national or international acclaim by otherwise guiding their careers.

Overall, the evidence reflects that the Petitioner achieved sufficient success and acclaim as a competitive [redacted] to enable her to transition to coaching promising young [redacted] at her former training center. However, she has not yet received a comparable level of recognition for her coaching activities, nor are these activities well-documented in the record. While it appears that [redacted] has a

center [redacted] in 2017, while the petition was pending and subsequently submitted evidence of the achievements of U.S.-based [redacted] she has coached. 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). If the Petitioner establishes that she achieved the requisite recognition as a coach in Mexico prior to filing the petition, then we would consider evidence that she sustained that recognition based on her coaching activities in the United States.

distinguished regional reputation within Mexico, we cannot conclude based on the evidence submitted that the Petitioner's role with this training center or her employment as a member of its coaching staff is indicative of her sustained national acclaim as a coach. 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).

Considered in its totality, the evidence in the record demonstrates that the Beneficiary was a very talented [redacted] who is recognized within her home state of Tamaulipas and achieved a period of national acclaim during the height of her competitive career. While her athletic career included several notable accomplishments in international competition and she appears to be well-prepared to coach young [redacted] striving towards the elite level, the Petitioner has not shown that her athletic and coaching achievements at this point of her career, in any one area or as a whole, are indicative of one who has risen to the very top of her field of endeavor with sustained national or international acclaim, as required. 8 C.F.R. § 204.5(h)(2)-(3).

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than those progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the statutory standards for classification as an individual of "extraordinary ability." *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994). While the Petitioner need not establish that there is no one more accomplished to qualify for the classification sought, we find the record insufficient to demonstrate that she has sustained national or international acclaim and is among the small percentage at the top of her field. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2).

III. CONCLUSION

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.