



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

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

In Re: 6081233

Date: JAN. 9, 2020

Appeal of Texas Service Center Decision

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

The Petitioner, a competitive ballroom dancer and teacher, 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 Texas 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 entered the United States in November 2013 to participate in dance competitions. Since that time, he has remained in the United States in O-1B nonimmigrant status as an individual with extraordinary ability in the arts. The Petitioner remains active in competition, and at the time of filing was an instructor at a [redacted] Dance Studio franchise in [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 Director found that the Petitioner met one of the evidentiary criteria, relating to the display of his work in the field at artistic exhibitions or showcases under 8 C.F.R. § 204.5(h)(3)(vii). On appeal, the Petitioner asserts that he also meets three other evidentiary criteria, discussed below. After reviewing all of the evidence in the record, we find that the Petitioner has not satisfied any further criteria beyond the one that the Director granted.

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 submitted translated copies of certificates showing that the Petitioner placed first or second in numerous dance competitions in [redacted] Europe from 2001 to 2013. The Petitioner also received awards and certificates in the United States, both for dancing and for teaching, from 2013 to 2017. The Petitioner did not submit background information or documentary evidence to establish the national or international recognition for these prizes. The prizes themselves are not evidence of their own recognition.

The Petitioner submitted information about the awarding entities:

- [redacted] DanceSport Federation [redacted]
- [redacted] Dance Sport Federation [redacted]
- National Dance Council of America
- [redacted] Dance Studios [redacted]

The submitted materials provide background information about the entities, but do not establish the national or international recognition accorded to individual awards from those entities. The regulatory

standard is that the prizes and awards must, themselves, be nationally or internationally recognized; it cannot suffice that the Petitioner received prizes and awards from recognized entities.

The Director acknowledged that the Petitioner had won “numerous prizes and awards,” but found that the Petitioner had not shown them to be nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

On appeal, the Petitioner submits a ten-page list of competitions in which he placed first or second, and asserts that the competitions are nationally or internationally recognized. The Petitioner, however, identifies no record evidence that establishes that claimed recognition. The Petitioner cited information about the awarding entities, but this information does not establish that the awards are nationally or internationally recognized.

The Petitioner has won a number of awards, but he has not established that those awards are nationally or internationally recognized as the regulations require.

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 claims membership in the [redacted] Dance Sport Federation [redacted] and the [redacted] Dance Sport Federation [redacted]. Printouts from the [redacted]’s website identify the Petitioner as a member of the [redacted] but not the [redacted], and indicate that the [redacted] has 1297 members. The Petitioner did not submit documentary evidence to show the membership requirements for the [redacted]

On appeal, the Petitioner asserts that he “is a member of the [redacted] Dance Sport Federation.” He does not repeat his earlier claim of membership in the [redacted]. The Petitioner also provides information about the [redacted] the membership of which consists of national governing bodies rather than individual dancers.

The Petitioner has not established that his is a member of any association in the field that requires outstanding achievements of its members, as judged by recognized national or international experts in their disciplines or fields.

Beyond the above criteria, the Petitioner has, at various times, cited the same evidence to show that he has satisfied two criteria not mentioned in the Director’s decision:

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)

The Petitioner claimed contributions in response to a request for evidence, and, on appeal, to have performed in a leading or critical role. Because the Petitioner does not pursue the “contributions” criterion

on appeal, we will consider the Petitioner's arguments and evidence in the context of a leading or critical role.¹

The Petitioner quotes five letters in the record. These letters are not sufficient evidence, for several reasons. Some letters do not name specific organizations or establishments, but rather offer only the general assessment that the Petitioner has had a productive and successful career.

One reference letter indicates that the Petitioner has served as a teacher and competitive dancer with "the [redacted] company." Whatever the national reputation of [redacted] Dance Studios may be, the Petitioner has not shown that he has had any kind of role with the studios at a national level. Rather, he has worked and competed for individual franchisees that license the [redacted] and the record does not establish that those specific franchisees have a distinguished reputation.

Additional letters in the record indicate that the Petitioner served as a dancer, a trainer, and an adjudicator for the [redacted].² The letters do not explain, and the Petitioner does not show, how these roles were leading or critical to the Federation, rather than lower-level participation in its activities.

For the above reasons, the various quoted letters do not establish that the Petitioner has performed in a leading or critical role for organizations with 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.

The submitted evidence shows that the Petitioner has been a successful competitive dancer, winning a number of competitions over several years and, later, engaging in teaching while continuing to compete. The significance of his activities, however, is not self-evident from the materials in the record, and the Petitioner seeks a highly restrictive immigrant classification, the threshold for which is not simply success and longevity.

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.

¹ The Petitioner abandoned the "contributions" issue by not raising the issue on appeal. *See Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1226, 1228 n.2 (11th Cir. 2005); *see also Hristov v. Roark*, No. 09-CV-2731, 2011 WL 4711885, at *1, *9 (E.D.N.Y. 2011).

² A separate criterion, at 8 C.F.R. § 204.5(h)(3)(iv), concerns participation as a judge of the work of others. The Petitioner does not specifically claim to have satisfied this criterion. While a number of letters in the record refer generally to the Petitioner's past work as an adjudicator, and a website printout refers to his adjudicator's license, the record does not directly document this activity or illustrate any identifiable occasion on which the Petitioner served in that capacity.