



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

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

In Re: 8868195

Date: JULY 6, 2020

Appeal of Nebraska Service Center Decision

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

The Petitioner, an athlete competing in weightlifting, 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 met the initial evidentiary requirement of either a one-time achievement or meeting at least three of the ten evidentiary criteria under 8 C.F.R. § 204.5(h)(3)(i)-(x). In addition, the Director found that the Petitioner did not establish that he will continue to work in his area of expertise under 8 C.F.R. § 204.5(h)(5). The Petitioner subsequently filed a combined motion to reopen and reconsider, and submitted new evidence including an offer of prospective employment. While the Director acknowledged that this evidence established the Petitioner's intent to continue competing as a weightlifter, he also found that other additional evidence was sufficient to establish that the Petitioner met the initial evidentiary requirements. The Petitioner now appeals that decision.

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 is a weightlifter who has been participating in national and international tournaments for several years. While he initially stated his intent to both coach and compete, he indicated that he did not intend to pursue coaching in his response to the Director's request for evidence (RFE), and provided the prospective job offer letter mentioned above on motion.

### A. One Time Achievement

Although the Petitioner did not claim to have earned a major, internationally-recognized award on motion, he now reasserts the claim he made in response to the Director's RFE. He asserts that the bronze medal he received in the 2013 [redacted] World Championships in the [redacted] division is comparable to an Olympic medal, since this tournament involved the same world-class level of competition as the Olympic Games. However, as noted in the Director's decision, while neither the pertinent statute nor the regulations identify a particular prize or award which qualifies as a one time achievement, the House Report specifically cited to the Nobel Prize as an example of a one-time achievement. *See* H.R. Rep. 101-723, 59 (Sept. 19, 1990), *reprinted in* 1990 U.S.C.C.A.N. 6710, 1990 WL 200418 at \*6739. Like other examples including the Pulitzer Prize, the Academy Awards and Olympic medals, the selection of Nobel Laureates is reported in the top media on an international basis and reflects a familiar name to the public at large. While we do not question the caliber of competition at the annual [redacted] World Championships, the record does not include evidence demonstrating that it receives the same level of recognition beyond the sport of weightlifting to the public at large. The Petitioner submitted evidence of articles regarding his and his teammates victories at the [redacted] World Championships in newspapers in [redacted] but he did not submit evidence showing the same level of broad international press coverage given to the Olympic Games. We therefore find that he has not established that he as earned a major, internationally-recognized award.

## A. 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 one of the evidentiary criteria, relating to his receipt of lesser nationally and internationally recognized awards. Based upon his receipt of medals at the 2013 and 2014 [redacted] World Championships, as well as in the 2014 [redacted] we agree with the Director's finding regarding the criterion at 8 C.F.R. § 204.5(h)(3)(i). On appeal, the Petitioner asserts that he also meets the following additional evidentiary criteria:

- Documentation of the his 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).
- Published material about him in professional or major trade publications or other major media, relating to his 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).
- Evidence of original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v).
- Evidence that he 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).

After reviewing all of the evidence in the record, we find that the Petitioner does not satisfy the requisite three criteria.

*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 previously claimed to meet this criterion in his initial filing, but did not address this claim in his combined motion to reopen and reconsider. He now reiterates this claim on appeal. The record indicates that the Petitioner competed as a member of the [redacted] national weightlifting team for several years. Although he does not refer to evidence to establish that the team requires outstanding achievements of its members, as judged by recognized national or international weightlifting experts, in his appeal brief, his initial filing included evidence submitted in support of his claim to meet these requirements. Specifically, he referred to several different reference letters, two of which were submitted by officers of the Weightlifting Federation [redacted]. Although the letter from [redacted] Vice President of [redacted] speaks mainly of the Petitioner's participation from 2013, the letter from [redacted] indicates that he has been a member of the national team since 2008. These letters are consistent with the evidence of the Petitioner's participation in international tournaments during this period.

As to whether membership on the national weightlifting team of [redacted] requires outstanding achievements, the Petitioner submitted a document titled "Resolution About Approval of the General Principles and Criteria of Forming of Lists of Candidates for Sports Teams [redacted]"

[redacted], the Procedure for Approval of the List.” We note that the effective date of this resolution is October 26, 2017, which means that the Petitioner would have been subject to these rules for national team selection while competing in the 2017 [redacted] World Championships. Chapter 2 of the resolution indicates that the candidate lists for members of the national sports teams “are formed based on the results of participation of athletes in the official republican or international sports competitions during the previous season,” and that they include “athletes who have reached the highest level” in those events. Chapter 3 further describes the approval of the list of team members for each team. Based upon this evidence, the Petitioner has established that he meets this criterion.

*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)*

In his initial decision, the Director determined that the articles initially submitted were not about the Petitioner, but merely mentioned him and reported the results of competitions. He also found that most of this evidence did not include the required date and author information, and was not published in a qualifying type of media under this criterion. With respect to the evidence submitted on motion, the Director found the transcripts of a televised interview of the Petitioner to not have been published in a qualifying medium, and to be from an unverifiable source.

Upon review of the evidence submitted with the initial petition, in response to the Director’s RFE, and with motion to reopen and reconsider, we find that some of the published articles are about the Petitioner. Specifically, an article published in the newspaper *Sport* on [redacted] 2014 reports his receipt of a bronze medal in the 2014 [redacted] and includes an interview of him about the tournament and future prospects for the [redacted] national weightlifting team. Another article in the same publication, issued on [redacted] 2013, is about the Petitioner and another weightlifter receiving honorary titles as a result of their victories in the 2013 [redacted] World Championships. Both articles include the required date and author information.

However, the evidence does not establish that *Sport* is a professional publication, intended for those engaged in a profession as opposed to the public at large, or that it is a major trade publication. Regarding its status as a major medium, the evidence indicates that it is distributed “along the all branch [*sic*] of national airline [redacted]” and that the weekly editions noted above had circulation of 5000 and 7000 copies, respectively. However, the record does not include circulation data for other print media in [redacted] by which it could be determined whether *Sport* is a major medium. We note that an article posted on the website of the Ministry of Physical Education and Sports of the [redacted] lists *Sport* among five other publications focusing on sports reporting. But the article does not provide circulation statistics for any of these publications, and while it notes that the list is a “rating” of newspapers, there is no evident score or other value assigned to the publications in the list, or any other information relevant to the determination of whether the publications qualify as major media.

Regarding the other articles in the record published in print or online media, we agree with the Director that none are about the Petitioner. For example, an article published in the newspaper *People’s Voice* on [redacted] 2014 is titled “[redacted] 2014: Success of our Athletes,” and includes a single

sentence reporting the Petitioner's results. Another article in the same newspaper published on [redacted] 2013 includes a decree from the President of [redacted] awarding an honorary title to the Petitioner for his [redacted] World Championship results, but unlike the article in *Sport* noted above does not provide further information about the Petitioner or his career as a weightlifter. As noted by the Director, articles that are not about the petitioner 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). Similar articles in other newspapers in the record are also not about the Petitioner.

Turning to the transcripts of what the Petitioner describes as a broadcast documentary about him, titled [redacted] they show the Petitioner being interviewed and filmed as he trains. It is therefore about the Petitioner and his work as a weightlifter. As to whether this material was published in a major medium, the Director noted in his decision that the date and author information was not included, and that the source of the transcript was indeterminate. On review, we note that the Petitioner referred to a letter from [redacted] who states that he previously worked for the "Sport" channel of the [redacted] National TV and Radio Company, and is now employed by the Ministry of Physical Education and Sports. He provides a list of programs which were aired which included the Petitioner, which includes several airings of weightlifting competitions in which the Petitioner participated which are not primarily about the Petitioner. The list also includes a description of what appears to be the program evidenced by the transcripts, although he refers to it by a different title, and states that it was aired in [redacted] 2014. However, unlike the other programs listed, [redacted] does not indicate that it was aired on the "Sport" channel, or identify on which medium it was presented. Also unlike the other programs listed, he does not provide an estimate of the number of viewers of this program. Further, a link to a YouTube video of the program provided by the Petitioner could not be accessed. Accordingly, the evidence does not establish that the transcripts relate to material which was published.

For all of the reasons noted above, we find that the Petitioner has not established that he meets this criterion.

*Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.* 8 C.F.R. § 204.5(h)(3)(v)

In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), a petitioner must establish that not only has he made original contributions, but that they have been of major significance in the field. For example, a Petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance.

On appeal, the Petitioner does not indicate why he believes that the Director's original decision regarding this criterion was in error, or refer to specific evidence in the record that supports his claim, but simply states that evidence of his "original athletic contribution in the field has been provided." We note that in his response to the Director's request for evidence (RFE), the Petitioner first highlights two awards he was granted: "The Best Sportsman of 2013" from the [redacted] youth organization at the [redacted] Institute of Physical Training, and "The most perspective sportsman of the year" from the [redacted]. However, no evidence or explanation was (or is) provided to show that these awards

represent original contributions to the sport of weightlifting, or that they were given to the Petitioner to recognize contributions that have made a significant impact in the sport. Rather, they are acknowledgments of the Petitioner's athletic accomplishments and potential.

The Petitioner also referred in his RFE response to a letter from the director of the [redacted] specialized boarding school of Olympic reserves. After listing some of the Petitioner's athletic accomplishment, the director states that "Due to his achievements in sports, the number of children and adolescents who have wished to become a notable athletic sportsman in [redacted], and not only in [redacted] has made a significant contribution to the development of sport in this country." He goes on to list several weightlifters who have competed in international competitions and "who were admiring [the Petitioner] and chosen the sports – weightlifting." While the director thus indicates that the Petitioner served as an inspiration for these and other athletes, these assertions are not supported by evidence directly and exclusively linking the Petitioner's athletic accomplishments to an increase in the quantity and quality of weightlifters in [redacted]. Accordingly, the Petitioner has not established that he meets this criterion.

*Evidence that the alien 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)*

In support of his claim to qualification under this criterion, the Petitioner submitted evidence of regular salary payments he received, as well as bonuses he was awarded for certain achievements. The only evidence regarding regular wages received was a statement from the sports club of the Ministry of Defense, which lists his salary for the months of February 2017 to January 2018. During those 12 twelve months he received a total of 13,336,735 [redacted], or an average of 1,111,395 [redacted] per month.

Other evidence includes a similar statement from the [redacted] which indicates that the Petitioner received a single payment of 40,304,000 [redacted] in October 2017 for "salary and other earnings," although there is no explanation why this money was received during this month and no others. In addition, the record includes evidence that the Petitioner received several one-time bonuses:

- 5,000,000 [redacted] from the [redacted] National Olympic Committee for winning a silver medal at the 2013 [redacted] World Championships (undated certificate)
- 50,000,000 [redacted] from the [redacted] National Olympic Committee for "earning a license to participate" in the 2016 [redacted] (undated certificate)
- 5,000,000 [redacted] from the [redacted] National Olympic Committee for winning a silver medal at the 4<sup>th</sup> [redacted] in 2017 (undated certificate)
- Letter and title confirming that he was awarded a "Youth House" on [redacted] 2016 under a government order providing housing for "young families actively participating in the country's social life"
- Letter and purchase agreement confirming that he received a car (2013 [redacted]) on [redacted] 2013 for his bronze and silver medals earned at the 2013 [redacted] World Championships

In addition, in a reference letter dated May 3, 2019, the vice president of [redacted] states that the Petitioner is "number two among the highest paid weightlifters [redacted]" and "among the top paid athletes

in other types of sports in [redacted]” However, this official does not provide salary figures for the Petitioner or other athletes to support his statement, nor does he provide additional information regarding the bonuses received by the Petitioner and other athletes.

The Petitioner also provided a report which indicates that it was prepared by the State Committee of [redacted] on Statistics [redacted], titled “Average monthly nominal accrued wages in [redacted]” It indicates for the 2017 calendar year, the average monthly wage for all employment categories was 1,453,200 [redacted] and in the category of “Art, Entertainment and Recreation,” 1,367,000 [redacted]. However, we note that the report does not provide wage statistics for athletes in general, or for weightlifters specifically. Since the category of “Art, Entertainment and Recreation” could include wages for a wide variety of jobs and industries, this figure does not provide an appropriate basis for comparison to the Petitioner’s wage and other earnings.

In addition, the report provides only average salaries, and does not include data for top earners in their respective fields. While we acknowledge that the evidence shows that the Petitioner’s remuneration, including salary and bonuses, exceeded 58 million [redacted] in 2017, the data in the [redacted] report is not sufficient to establish that this sum is significantly high in comparison to that of other weightlifters in [redacted]. We therefore find that the Petitioner does not meet this criterion.

### 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 Petitioner seeks a highly restrictive visa classification. 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 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 that 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.