



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

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

In Re: 8865906

Date: NOV. 30, 2020

Appeal of Nebraska Service Center Decision

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

The Petitioner, a martial arts athlete and 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 record did not establish that the Petitioner met the initial evidence requirements through receipt of a major, internationally recognized award or meeting three of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3).

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

international 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 criteria 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).

II. ANALYSIS

The Petitioner is a martial arts athlete and coach in the disciplines of taekwondo, muay thai, and hapkido. He provided evidence indicating that he intends to continue serving as a martial arts coach or trainer in the United States.

A. One-Time Achievement

Given Congress' intent to restrict this category to "that small percentage of individuals who have risen to the very top of their field of endeavor," the regulation permitting eligibility based on a one-time achievement must be interpreted very narrowly, with only a small handful of awards qualifying as major, internationally recognized awards. *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. The House Report specifically cited to the Nobel Prize as an example of a one-time achievement; other examples which enjoy major, international recognition may include the Pulitzer Prize, the Academy Award, and an Olympic Medal. The regulation is consistent with this legislative history, stating that a one-time achievement must be a major, internationally recognized award. 8 C.F.R. § 204.5(h)(3). The selection of Nobel Laureates, the example provided by Congress, is reported in the top media internationally regardless of the nationality of the awardees, reflects a familiar name to the public at large, and includes a large cash prize. While an internationally recognized award could conceivably constitute a one-time achievement without meeting all of those elements, it is clear from the example provided by Congress that the award must be global in scope and internationally recognized as one of the top awards in the field.

The Petitioner asserts that the gold medal he received as a member of the [redacted] team at the [redacted] International Taekwondo Federation (ITF) [redacted] Championship in [redacted] qualifies as a major, internationally recognized award.¹ The evidence of this award includes a photograph of a gold medal

¹ We take administrative notice that World Taekwondo, previously known as the World Taekwondo Federation (WTF), is recognized by the International Olympic Committee as "the worldwide legitimate governing body of the sport," and that taekwondo has been an official medal sport in the Olympic Games since 2000. See <https://www.olympic.org/taekwondo>, accessed on October 10, 2020.

from the event, a certificate identifying the national team of [redacted] as first place winners in the [redacted] division, and pages from the website of the ITF confirming the results of this event. Although none of these items name the Petitioner, a letter from the State Agency for Tourism and Sport of the [redacted] dated December 23, 1999, confirms that he was a member of this winning team and was subsequently conferred the title of “Master of Sport, International Class.” In his decision, the Director noted that neither the medal nor the certificate name the Petitioner as the winner of this award. On appeal, the Petitioner asserts that “it is common for athletic awards not to include the names,” and points to “extensive affidavits” which list awards received by the Petitioner. However, both the certificate and the results from the website of the ITF show that it was the team from [redacted] which received the award, and neither item lists the names of the members of that team. Although the evidence shows that the Petitioner was a member of the awarded team, this gold medal was awarded by the ITF to recognize the achievement of the team as a whole, as opposed to other awards listed on the webpage which were awarded for individual achievements. We therefore agree with the Director and find that the evidence does not establish that this award was granted in recognition of the Petitioner’s achievements.

In addition, even if we were to consider the award to have been granted to the Petitioner in recognition of his achievements, he has not established that it is a major, internationally recognized award. We note that the Petitioner did not initially claim that this award qualifies as such, but did so when responding to the Director’s request for evidence (RFE). In that response, he referenced “documentation previously submitted” as well as new evidence taken from the website of the ITF. That website evidence provides a history of the federation and a list of world championship tournaments it has held, but does not establish that the award for the team [redacted] competition, or any of the other awards granted at those tournaments, receives the same level of international recognition as the awards mentioned above. While the record demonstrates that the team’s success at this tournament was reported in a city weekly paper in [redacted], the Petitioner has not shown that the tournament and its results were covered in top international media, or that the award is commonly known in the general public. For all of these reasons, we find that he has not established that the first place team award earned at the [redacted] ITF [redacted] Championship qualifies as a major, internationally recognized award.

B. 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 did not meet any of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). On appeal, the Petitioner asserts that he meets six of these criteria. After reviewing all of the evidence in the record, we find that while the Petitioner has satisfied the initial evidence requirement for this classification by meeting three of the evidentiary criteria, he has not established that he has garnered sustained national or international acclaim as a martial arts athlete and coach, and is not among the small percentage at the top of the field of martial arts.

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)

As discussed above, the first place award given to the [redacted] national team at the [redacted] ITF [redacted] Championship does not recognize the Petitioner, nor does the evidence show that it was received by him. However, the record includes evidence of other prizes or awards which he did personally receive. These include several he earned for his participation as a martial arts athlete, such as placing in the national taekwondo championships in [redacted] in 1999, 2002, 2005 and 2006, and in the country's muay thai championships in 2005, 2006, 2009, 2011, 2013 and 2014. As these were demonstrated to be top events in the field at the national level, they meet the plain language of this criterion. The Petitioner also submitted evidence of placings in other types of martial arts competitions, including hapkido, but the record does not include evidence showing that these were top national or international awards, or that the Petitioner garnered national or international recognition as a martial artist due to these placings.

In addition, the record includes certificates for two awards the Petitioner received as a coach or trainer in taekwondo. Both certificates indicate that he received them "for outstanding training of athletes" at the 2013 and 2016 editions of the Open Championship of the [redacted] in Taekwondo (ITF). However, the Petitioner did not provide evidence regarding the criteria for receiving the award, how many of these certificates were awarded at these events, or any additional information about the awards to show that they are recognized at the national or international level.

Accordingly, based upon the national-level awards received by the Petitioner as a taekwondo and muay thai athlete, we disagree with the Director and find 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)

The Director, while not referring to specific evidence in his decision, found that the evidence submitted under this criterion was either not about the Petitioner, did not include the required information about the publication of the material, or was not published in one of the qualifying types of publication. On appeal, the Petitioner focuses on one article which was published in [redacted] [redacted] on July 18, 1997. That article, [redacted] focuses on the Petitioner and his background while discussing the [redacted] national team's victory at the [redacted] ITF [redacted] Championship. In addition, the record includes evidence concerning the circulation of [redacted], including a letter from the chief editor of the newspaper stating that at the time of publication this was 55,000 copies. Additional information from two websites, BBC News and Press Reference, generally supports that figure and indicates that the newspaper is one of a small number of major newspapers in the [redacted]. Therefore, based upon this single article, we disagree with the Director and find that the Petitioner meets this criterion.

Evidence of the alien's participation, 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 copies of certificates showing his certification as an "A Class (International)" hapkido judge in 2014, and as an international level referee and judge by the International Federation

of Muay Thai Amateur (IFMA) in 2016. As proof of his service as a hapkido judge, he submitted a letter from [redacted] President of the [redacted] Hapkido Martial Arts Federation, listing several competitions judged by him in [redacted] from 2011 to 2016. However, an earlier letter from [redacted] dated May 24, 2018, indicates that the Petitioner has served as a hapkido judge since May 6, 2012, and confirms only the two most recent instances at tournaments in 2016. The Petitioner must resolve these inconsistencies in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Here, he has not explained the difference between the date of his certification and the date [redacted] states that he became a judge, how he was able to participate as a judge prior to obtaining his certification, and why [redacted] listed a competition that he judged in 2011 in one letter but stated that he began judging in 2012 in the other. These discrepancies, and the lack of an explanation of them, significantly decrease the evidentiary value of [redacted] letters. We further note that the list of competitions in [redacted] letter is not supported by corroborating evidence of his participation as a judge at those competitions.

Regarding his participation as a judge of muay thai competitions, the Petitioner submitted a letter from the [redacted] Muay Thai Federation listing competitions in Central Asia and Thailand from 2007 to 2018. As with the evidence regarding his judging of hapkido competitions, the Petitioner does not explain how he was able to participate as a judge prior to earning his certification in 2016. However, in this case, the Petitioner submitted copies of three photographs which provide sufficient evidence to corroborate his claim to have judged the [redacted] in Muay Thai on August 24, 2016. In addition, he provided evidence that the duties of a judge in a muay thai competition include scoring the competitors and identifying a winner, versus only enforcing rules of conduct. We therefore disagree with the Director and find that the Petitioner meets this criterion.

As discussed above, upon review we find that the Beneficiary meets three of the evidentiary criteria under 8 C.F.R. § 204.5(h)(3), and has therefore met the initial evidence requirement for this classification. Accordingly, we will not consider whether he also meets additional criteria, but will instead consider all of the evidence in the record in performing a final merits determination.

B. Final Merits Determination

Because the Petitioner submitted the requisite initial evidence, we will evaluate whether he has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim and that he is one of the small percentage at the very top of the field of endeavor, and that his 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 their successes are sufficient to demonstrate that they have 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 1119-20.² In this matter, we determine that the Petitioner has not shown his eligibility.

² *See also* 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 4* (Dec. 22, 2010), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html> (stating that USCIS officers should then evaluate the evidence together when considering the petition in its entirety to determine if the petitioner has established, by a preponderance of the evidence, the required high level of expertise for the immigrant classification).

As we discussed above when considering the evidence of awards the Petitioner has received as a martial arts athlete, the evidence shows that he was successful in national taekwondo (ITF and WTF) competitions in the [redacted] early in his career. He was a member of the national taekwondo (ITF) team from [redacted] and was a member of the team which won first place at the [redacted] ITF [redacted] [redacted] that year. However, despite several letters indicating that he continued to be a member of the national team up until the time of filing, the record does not include evidence of his participation as an athlete in ITF or WTF sanctioned taekwondo competitions outside of the [redacted] after 1997, as would be expected of a national team member. For example, an article published in the [redacted] on May 17, 2005, titled [redacted] [redacted] states that the Petitioner was a winner in his weight class, and that the national team would compete in upcoming student games in Turkey, the Asian Games for juniors, and later the Central Asian Games. However, the record lacks evidence of his participation in these competitions, whether in the form of prizes earned, media reports or official published results. Therefore, although the evidence shows that, as an athlete, he was a member of the national taekwondo team of the [redacted] it does not show that he played an active role on the team or competed against taekwondo athletes at the international level after this single tournament in [redacted] and thus that he received acclaim as an athlete and member of the team at the national or international level.

In addition, the evidence demonstrates that later in his career as a martial arts athlete, the Petitioner had success at national-level muay thai competitions over several years. He also submitted a certificate showing that he placed third in the [redacted] in muay thai at the [redacted] of Martial Arts held in [redacted] Ukraine in [redacted] 2010. However, although several reference letters mention the Petitioner's receipt of this award, the record does not include evidence regarding the prestige of this award, the number and level of competitors at the event, or media coverage of the event or its results. This evidence is therefore not sufficient to show that as a result of placing third in this tournament, the Petitioner garnered national or international acclaim or achieved standing among top muay thai athletes. Further, despite several reference letters indicating that he served as an athlete and coach of the national muay thai team of the [redacted] since 2004, this is the only evidence which indicates that the Petitioner competed in a tournament outside of the country against international caliber athletes.

Also relating to his membership as an athlete on the [redacted]'s national taekwondo (ITF) team as well as the national muay thai and hapkido teams, the record does not show that these memberships placed him among the small percentage of martial artists at the top of the field. In particular, several reference letters regarding the Petitioner's membership on the national taekwondo (ITF) team were submitted, including some written by authors who state that they personally reviewed his achievements when making the membership decision. One was written by [redacted] [redacted] of the Taekwondo Federation of [redacted] who states that membership is exclusively granted to athletes and coaches with "a consistent track record of outstanding achievements in this sport." He goes on to state that both his admission as an athlete in 1997, and his promotion to head coach of the team in 2013, "were recommended by" another taekwondo athlete and the then head coach of the national taekwondo team. Both of those individuals also submitted reference letters containing nearly identical text. The letters indicate that both individuals reviewed the Petitioner's "track record of achievements" and "made a conclusion that [the Petitioner's] achievements in the[se] field[s]... were indeed outstanding." In addition, both letters indicate that

[redacted] national taekwondo (ITF) team “only selects the best of the best and is highly selective.”

Repeating the language of the statute or regulations does not satisfy the petitioner’s burden of proof. *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff’d*, 905 F. 2d 41 (2d. Cir. 1990); *Avyr Associates, Inc. v. Meissner*, No. 95 CIV. 10729, *1, *5 (S.D.N.Y. Apr. 18, 1997). Although all three letters include multiple instances of the words “outstanding” and “achievement,” thus repeating the language of the criterion at 8 C.F.R. § 204.5(h)(3)(ii), none of them identify exactly which of the Petitioner’s achievements were considered to qualify him for membership on the team or for his promotion to the head coach position, despite the fact that two of them were written by individuals who claim to have recommended these actions. [redacted] lists several awards received after the Petitioner was made a member of the team, but does not refer to any awards or other achievements which he considers to be outstanding and which led to the Petitioner’s initial membership and coaching position. The letters do not provide details about the standards generally used in selecting national team members or coaches, nor do they explain how those standards were applied in the Petitioner’s case, and they therefore do not show that the Petitioner had proven himself to stand out from his peers at the national level.

The Petitioner also submitted evidence that he received the title of “Master of Sport,” presumably as a result of his successes in national-level competitions. Specifically, the record includes a letter from [redacted] Agency for Tourism and Sport, dated December 23, 1999, that acknowledges his receipt of the title “Master of Sport, International Class, [redacted] #79, order #263 of [redacted]” In addition, the record includes two certificates [redacted] one of which was issued for this title in “Taekwondo ITF” and the other for “Taekwondo.” However, these certificates are numbered as “License #160” and “Certificate #08,” respectively, neither of which matches the certificate number mentioned in the letter. In addition, despite the certificates listing the same date of issue, the photographs of what appear to be the Petitioner are dramatically different, with the second showing him with a beard and receding hairline that are missing in the first. The Petitioner must resolve these inconsistencies in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

Other certificates bestowing the Master of Sport title on the Petitioner were also submitted, including in pankration from the “World Pankration Athlima Federation,” and in muay thai. However, as with the taekwondo certificates discussed above, the Petitioner has not provided evidence regarding the criteria for issuance of these certificates and titles, how many are issued, or that he garnered national or international acclaim as a result of receiving them.

As noted above regarding the criterion relating to published material about the Petitioner, although he submitted several articles which either mentioned him or reported his results in competitions among those of other athletes, only one article published in [redacted] focused on him and provided details about his career as a martial arts athlete. This evidence indicates that despite his success as an athlete in national-level competitions, he did not receive sustained attention or acclaim in either general media or publications focused on sports.

Turning to the Petitioner’s career as a martial arts coach, the endeavor which he intends to pursue in the United States, he submitted certificates, letters and other materials which indicate that he has

served as head coach of the [redacted] national taekwondo (ITF) team since 2013, the national hapkido junior team since 2016, and head coach for physical training of the national muay thai team since 2004. As previously noted, he received two certificates, in 2013 and 2016, for “outstanding training of athletes” in ITF taekwondo. However, no information was provided about these certificates, and therefore this evidence does not demonstrate that he received national or international acclaim as a taekwondo coach.

In addition, letters from officials of the national federations of each sport list the names of some of the students who have been coached by the Petitioner. For instance, [redacted] lists three athletes that the Petitioner coached as members of the national taekwondo (ITF) team, including one who he indicates received awards years prior to the Petitioner’s appointment as a coach. Although certificates were submitted showing that that student won an award in 2008 (a second certificate is undated), this evidence does not indicate that the Petitioner had any part in the student’s receipt of that award.

Several other letters from athletes who state that they trained under the Petitioner’s guidance were submitted, all of which follow the same organization and include identical language, suggesting the language in the letters is not the authors’ own. *Cf. Surinder Singh v. Board of Immigration Appeals*, 438 F.3d 145, 148 (2d Cir. 2006) (upholding an immigration judge’s adverse credibility determination in asylum proceedings based in part on the similarity of some of the affidavits); *Mei Chai Ye v. U.S. Dept. of Justice*, 489 F.3d 517, 519 (2d Cir. 2007) (concluding that an immigration judge may reasonably infer that when an asylum applicant submits strikingly similar affidavits, the applicant is the common source). The shared organization and text in these letters indicates that they share a common source, and thus reduces their evidentiary value.

Further, several of the letters state that the Petitioner was responsible for coaching an athlete named [redacted] and lists among his accomplishments the receipt of a silver medal at the [redacted] Muay Thai Championship in [redacted] Sweden. However, a letter from the Muay Thai Federation [redacted] indicates that [redacted] (different spelling than in all of the letters) trained under several coaches, including the “Head Coach of the [redacted] [redacted]” but does not mention the Petitioner. As with the discrepancies in the Master of Sport certificates, these discrepancies in the letters must be resolved by independent evidence. *Ho*, at 591-92. Here, we note that other evidence in the record also introduces discrepancies regarding the Petitioner’s role with the national muay thai team. Specifically, an article dated September 13, 2016 from the website [redacted] is about the “thai boxing” team training for the [redacted] Games, and mentions that athletes, including [redacted] are “consulted by the Federation head coach [redacted]” Although the article also mentions that the athletes attended a “seminar” held by the Petitioner, he is identified as the president of his own fight club and as an international category referee and judge, and his role is stated as explaining “what techniques the referees want to see this year.” As such, although this article verifies that the Petitioner provided guidance to muay thai athletes during this seminar, it does not support the claims that he acted as a coach of the national team or had any significant influence in its training.

In addition to the article discussed above, another article, which was taken from the website [redacted] and is dated May 10, 2016, consists of an interview of [redacted] and once again identifies him as the coach of the [redacted] national muay thai team. The Petitioner is mentioned only as one of his many trainees.

In summary, although the evidence establishes that the Petitioner has been successful as an athlete in national-level martial arts competitions, it does not demonstrate that he has enjoyed sustained national or international acclaim. Also, the evidence of only limited participation in international-level martial arts tournaments does not support a finding that he is one of the small percentage of athletes at the top of the field. In addition, the evidence of his career as a martial arts coach does not show that he has earned sustained acclaim for this second phase of his career in the martial arts. Further, considering the numerous inconsistencies in the evidence regarding all aspects of his career as a martial arts athlete, coach and referee which have not been resolved, the evidence does not establish that the Petitioner qualifies as an alien of extraordinary ability.

III. CONCLUSION

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 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.