



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

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

In Re: 17644740

Date: SEPT. 22, 2021

Appeal of Nebraska Service Center Decision

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

The Petitioner, which trains athletes in [redacted] seeks to classify the Beneficiary, a [redacted] coach, 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 although the record established that the Petitioner satisfied the initial evidentiary requirements with respect to the Beneficiary's recognition as an athlete, it did not do so regarding his recognition as a coach. 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 sustain the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes immigrant visas available to individuals 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 a beneficiary’s 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 beneficiary 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 petitioning club has trained several champion [redacted], including the silver medalist at the 2016 Olympics. In the United Kingdom, the Beneficiary trained at [redacted] where he later worked as a coach. After entering the United States, the Beneficiary trained at the petitioning club. In early 2017, he began coaching for the Petitioner as an O-1 nonimmigrant of extraordinary ability, while continuing to compete.

We agree with the Director that the Beneficiary’s gold medal at the 2014 [redacted] Championships, while significant, is not a major, internationally recognized prize that qualifies as a one-time achievement under 8 C.F.R. § 204.5(h)(3). Without such a prize, the Petitioner must submit evidence to satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x).

The Director essentially stipulated that the Beneficiary meets at least three criteria as an athlete:

- The Beneficiary won “many awards including the gold medal at the 2014 [redacted] Championships,” satisfying 8 C.F.R. § 204.5(h)(3)(i);
- The Beneficiary’s membership in Great Britain’s [redacted] team at the 2012 and 2016 Olympics is a qualifying membership under 8 C.F.R. § 204.5(h)(3)(ii); and
- “The record shows the beneficiary has received major media attention as an international athlete,” fulfilling the requirements of 8 C.F.R. § 204.5(h)(3)(iii).

The Director also determined that the Beneficiary’s coaching position with the Petitioner qualifies as a leading or critical role for an organization or establishment with a distinguished reputation, satisfying 8 C.F.R. § 204.5(h)(3)(viii).

If the Petitioner had filed this petition seeking to classify the Beneficiary as an athlete of extraordinary ability, the above determinations would be sufficient for U.S. Citizenship and Immigration Services (USCIS) to proceed to a final merits determination. The Petitioner, however, seeks to employ the

Beneficiary as a coach, rather than as an athlete. The Director determined that much of the Petitioner's evidence concerns the Beneficiary's achievements and recognition as an athlete, not as a coach. The Petitioner contends, on appeal, that the "Beneficiary's field of endeavor is [redacted] and therefore his accomplishments as a competitor should have more weight than the Director afforded them.

In this respect, it bears noting that the Petitioner asserts on appeal that the Beneficiary "continues to compete as a [redacted] on a national and international level." The petition form indicates that the Petitioner intends to employ the Beneficiary only as a [redacted] coach, but this does not mean the Beneficiary has stopped competing. Rather, the Petitioner is not a professional team that employs athletes to compete on its behalf.¹ Instead, the [redacted] teams are separate from the training clubs. The Petitioner's head coach is also the head men's [redacted] coach for Team USA, the national [redacted] team.

As the Petitioner observes on appeal, the USCIS *Policy Manual* directly addresses the issue of athletes transitioning to coaching:

Competitive athletics and coaching rely on different sets of skills and in general are not in the same area of expertise. However, many extraordinary athletes have gone on to be extraordinary coaches.

Therefore, 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 or managing at a national level, officers can consider the totality of the evidence as establishing an overall pattern of sustained acclaim and extraordinary ability such that USCIS can conclude that coaching is within the beneficiary's area of expertise.

6 USCIS *Policy Manual* F.2(A)(2), <https://www.uscis.gov/policymanual>. Under this policy guidance, evidence of acclaim as an athlete cannot suffice *by itself* to establish extraordinary ability as a coach, but USCIS can give proportionate weight to evidence of that acclaim when the record *also* shows that the acclaim has continued into the beneficiary's coaching career. The guidance in the *Policy Manual* does not specify that a beneficiary must satisfy at least three evidentiary criteria as both an athlete and a coach; rather, it calls for evidence of continued *acclaim*, which is an issue for the final merits determination.

Given the above factors, the proper course of action is to conduct a final merits determination, seeking to determine whether the Beneficiary has achieved sustained acclaim both as an athlete and as a coach.

Because the Petitioner submitted the required initial evidence, we will evaluate whether it has demonstrated, by a preponderance of the evidence, the Beneficiary's 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 beneficiary's accomplishments and weigh the totality of the evidence to determine if their successes are sufficient to demonstrate that they have extraordinary

¹ Tax documents in the record indicate that the Petitioner paid \$127,105 in wages in 2018, and the Beneficiary received more than a third of that amount. These figures do not indicate that the Petitioner has a salaried staff of competitive [redacted]

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 established the Beneficiary's eligibility.

The record amply documents the Beneficiary's success as an athlete. As noted above, the Beneficiary has medaled at high-level international competitions. Ranking lists indicate that the Beneficiary ranked #4 in Great Britain in 2018, six years after his first Olympic competition. Most recently, the Beneficiary placed first in Britain's National Championships in spring 2019, about six months before the Petitioner filed the petition in October of that year. While continuing to compete, the Beneficiary also coached top-level [redacted] first for [redacted] and then, since early 2017, for the Petitioner.

The record supports a determination that the Beneficiary has achieved sustained national or international acclaim as a competitive [redacted]. The question before us is whether the Beneficiary has sustained that acclaim into his coaching career. For the reasons discussed below, we conclude that he has done so.

The Beneficiary's former coach at [redacted] who has also coached the British Olympic team, states that, at his club, the Beneficiary "trained athletes to compete at an Olympic and World Championship level," including a [redacted] "who made it in the top 8 in the World Cup in a ground-breaking performance."

The Petitioner's head coach, who has also served as a coach of the USA National [redacted] team since 2011 and as an Olympic [redacted] coach since 2008, asserts that the club has produced a record number of champions since the Beneficiary began working there, and he indicates that the Beneficiary is responsible for "the direction of the club" during the head coach's absence and, eventually, his choice as permanent successor. Two [redacted] who train at the petitioning center, both of whom won medals at the 2016 Olympics, attest to the Beneficiary's high-level coaching activity at the Petitioner's facility. The record documents the performance of several [redacted] who train under the Beneficiary.

The president and chairman of the board of USA [redacted] (the sport's U.S. national governing body), who is also the vice president of the sport's international governing body, the [redacted] [redacted] states that the Beneficiary's "positive influence on the USA [redacted] has been felt on several fronts," including "[a]s a high level training partner for our USA Men's [redacted] Team."

These letters confirm that the Beneficiary has coached at the highest levels in the United Kingdom and the United States, training champion athletes who have already competed at the Olympics and are well situated to do so again. In the denial notice, the Director acknowledged the Beneficiary's coaching work amounts to leading or critical roles for organizations or establishments with a distinguished reputation, satisfying the criterion at 8 C.F.R. § 204.5(h)(3)(viii).

² *See also 6 USCIS Policy Manual F.2(B)(2)*, <https://www.uscis.gov/policymanual> (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, that the beneficiary possesses the required high level of expertise for the immigrant classification).

A leading or critical role is not enough, by itself, to establish eligibility, but in the context of the Beneficiary's recent (and ongoing) acclaim as a competitive [] it is consistent with the conclusion that the Beneficiary is *coaching* at the same level at which he has been *competing*.

The record establishes that the Beneficiary reached the top of his field as a [] and has remained there as a [] coach. We will therefore sustain the appeal and approve the petition.

III. CONCLUSION

The Petitioner has established that the Beneficiary meets at least three of the evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)–(x). He has also demonstrated sustained national acclaim in his field and submitted extensive documentation of his achievements. Lastly, the Petitioner has shown that the Beneficiary intends to continue working in the United States in his area of expertise and that his entry will substantially benefit prospectively the United States. He therefore qualifies for classification as an individual of extraordinary ability.

ORDER: The appeal is sustained.