



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

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

In Re: 20009651

Date: MAR. 1, 2022

Appeal of Texas Service Center Decision

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

The Petitioner, a police officer specializing in training, 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 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 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 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).

Satisfaction of at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). 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. *Id.* (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 joined Brazil's [redacted] Police [redacted] in 2005. He began teaching courses for [redacted] officers in 2008, and in 2014, he became an instructor at the [redacted] University of the [redacted] in [redacted] occasionally serving as a substitute division chief there. Since 2020, he has been in the United States as an F-1 nonimmigrant student, studying for a master's degree in educational leadership, management, and emerging technologies at [redacted] University in [redacted] Florida. He has also competed in the martial art of jiu-jitsu at the international level. After completing his degree and gaining "two or three years of experience working for a United States company," the Petitioner intends to establish a company that "will provide a variety of security training services to organizations and businesses in the United States" and "assist companies with their security and firearms needs."

### A. Evidentiary Criteria

The Petitioner claims a one-time achievement in athletics, specifically a silver medal in the [redacted] [redacted] class at the 2020 [redacted] Brazilian Jiu-Jitsu Federation Jiu-Jitsu Championship in [redacted] Florida, in [redacted] 2020. In the alternative, the Petitioner asserts, on appeal, that the medal amounts to a lesser internationally recognized award to satisfy 8 C.F.R. § 204.5(h)(3)(i).

Whatever the other facts and claims surrounding the award, the Petitioner has not established that his intended employment in the United States would be as a competitive athlete. The evidence submitted under 8 C.F.R. § 204.5(h)(3) must establish recognition of a petitioner's achievements in his or her field of expertise. But here, the Petitioner claims a major award in the field of athletics, while his other evidence all falls under the different broad heading of education. While we consider the totality of the evidence, the Petitioner seeks a conflation of different fields, with some elements of acclaim drawn from athletics and other from education. While the Petitioner performed well at one recent international jiu-jitsu competition, the record as a whole indicates that his claimed area of expertise,

and his area of intended future employment, is law enforcement training and education, rather than competitive martial arts.

The Petitioner contends that martial arts are relevant to law enforcement because officers benefit from such training, and he states that the [ ] encourages police officers to enter sports competitions. He also shows that a training course that he designed includes jiu-jitsu techniques. Nevertheless, the Petitioner's personal success at competitive jiu-jitsu appears to be peripheral to his stated career of law enforcement training.

Because the Petitioner has not shown that he received a major, internationally recognized award in his intended field, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner claims to have satisfied six of these criteria, summarized below:

- (i), Lesser nationally or internationally recognized prizes or awards;
- (iii), Published material about the individual in professional or major media;
- (iv), Participation as a judge of the work of others;
- (v), Original contributions of major significance;
- (viii), Leading or critical role for distinguished organizations or establishments; and
- (ix), High remuneration for services.

The Director concluded that the Petitioner met only one of the criteria, because his high-ranking positions at [ ] amount to leading or critical roles for an organization or establishment with a distinguished reputation. On appeal, the Petitioner asserts that he meets the criteria pertaining to prizes; participation as a judge; original contributions; and high remuneration.

Upon consideration, we conclude that the Petitioner has satisfied two other claimed criteria. The Petitioner has served on various boards and committees that included evaluative functions, and he has thereby participated as a judge of the work of others. The Director concluded that this activity was "part of his employment duties." The regulation, as currently worded, broadly applies to judging activity. Whether the judging indicates acclaim is a question to address in the final merits determination.

The Petitioner has also shown that he received the highest level of compensation from the [ ]. The Director discounted the evidence of compensation because it included all police officers, not just high-ranking officials; but it remains that, according to the documentation submitted, there is no salary grade in the [ ] above what the Petitioner received.

## B. Final Merits Determination

Because the Petitioner submitted the required 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 whether 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.<sup>1</sup> In this matter, we determine that the Petitioner has not established sustained national or international acclaim, and, therefore, has not established eligibility.

The record shows that the Petitioner has fulfilled important roles at [redacted] and in so doing he has influenced law enforcement training in Brazil at a national level. The statutory threshold, however, is not influence, authority, or success, but sustained national or international acclaim. The evidence submitted does not rise to that very high standard.

The record shows that the Petitioner has risen to positions of considerable responsibility at [redacted] including designing at least one course of instruction and evaluating others, and also writing materials used in police training courses. He also presented studies recommending improvements in training methods, such as adopting virtual reality training simulators. These activities have had some influence on [redacted] training in Brazil, and the Petitioner has received recognition for his work in these areas, which we acknowledge by proceeding to a final merits determination.

But the Petitioner has not shown that his activities have brought him sustained national or international acclaim, or that the recognition he has received for his work (such as certificates identifying specific contributions and activities) amounts to such acclaim.

Regarding the Petitioner's compensation, he has shown that he has achieved the highest base pay rate in the [redacted] and he has also shown that he receives additional remuneration for participating in educational activities. The record does not show the complete range of activities for which [redacted] officers might receive extra pay of this nature, nor does it show how the Petitioner's total remuneration compares with that of the highest-paid individuals employed by the [redacted]. The evidence submitted therefore satisfies the first step in the analysis, that it generally meets the criteria of 8 C.F.R. § 204.5(h)(3)(ix), but does not satisfy the second step of analysis that it more broadly indicates sustained national or international acclaim.

The Petitioner has represented the [redacted] and [redacted] at international gatherings and on other occasions, such as "technical visits to the [redacted] Police Department and the [redacted] Police." The record does not establish how the Petitioner was selected to participate in these activities, and he has not shown that they resulted in, or were, themselves, the result of, sustained national or international acclaim. An individual can represent their organization in exchange visits of this kind without reaching the very top of the field of endeavor as contemplated at 8 C.F.R. § 204.5(h)(2).

In summary, while the Petitioner has documented a long and successful career with Brazil's [redacted] with some influence over the material presented at [redacted] he has not cleared the much higher threshold of sustained national or international acclaim.

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<sup>1</sup> 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, the required high level of expertise for the immigrant classification).

### III. CONCLUSION

We have reviewed the record in the aggregate, concluding that it does not support a conclusion that the Petitioner has established the acclaim and recognition required for the classification sought.

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. U.S. Citizenship and Immigration Services 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 recognition of his work is indicative of the required sustained national or international acclaim or demonstrates 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 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).

The Petitioner has not demonstrated eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons.

**ORDER:** The appeal is dismissed.