



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

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

In Re: 19808233

Date: MAR. 8, 2022

Appeal of Texas Service Center Decision

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

The Petitioner seeks classification as an individual of extraordinary ability as a cricket official and administrator. *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 Petitioner had not satisfied any of the ten initial evidentiary criteria, of which he must meet at least three. In addition, the Director determined that the Petitioner did not establish his intent to continue to work in his area of expertise and that he would substantially benefit prospectively the United States.

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)(A) 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 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 claims that he began officiating cricket in India in 2000 and has been a member of the umpiring committee at the [redacted] in [redacted] North Carolina since 2012.¹ Because the Petitioner has not indicated or demonstrated that he has received a major, internationally recognized award at 8 C.F.R. § 204.5(h)(3), he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). In denying the petition, the Director determined that the Petitioner did not fulfill any of the criteria. On appeal, the Petitioner maintains eligibility for four criteria. After reviewing all of the presented evidence, the record does not establish that the Petitioner meets the requirements of at least 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).

In order to satisfy this criterion, a petitioner must show that membership in the association is based on being judged by recognized national or international experts as having outstanding achievements in the field for which classification is sought.² The Petitioner contends that he meets this criterion based on his membership with the Board of Control for Cricket in India (BCCI) Panel of Scorers and references evidence from BCCI indicating that he “passed the Examination for Statisticians and Scorers.” In addition, he points to a letter from [redacted] interim [redacted] BCCI, who confirmed

¹ The record reflects that the Petitioner received H1B nonimmigrant visa classification reserved for individuals to perform services in a specialty occupation, to work as an Oracle solution architect for [redacted] in [redacted] Texas. In addition, the Petitioner is the beneficiary of an approved second preference immigrant petition as a member of the professions with an advanced degree filed by [redacted] to work as a senior business analyst.

² *See 6 USCIS Policy Manual F.2(B)(2)*, <https://www.uscis.gov/policymanual/HTML/PolicyManual.html> (providing an example of a dmission to membership in the National Academy of Sciences as a Foreign Associate that requires individuals to be nominated by an academy member, and membership is ultimately granted based upon recognition of the individual's distinguished achievements in original research).

the Petitioner's membership with BCCI's Panel of Scorers and stated that "BCCI formulates the panel for each category of match officials like BCCI Panel of Scorers, Umpires, Video Analysts and Match Referees," and "[e]ach Panel consists of the individuals who have attained the highest level of expertise and achievement in the respective category of match officials." In addition, he provided BCCI's "Memorandum of Association and Rules and Regulations" and amendments to the bylaws highlighting:

The function of the Umpires Committee shall be to standardize umpiring throughout India and to draw up and maintain a panel of Umpires to officiate matches in India and classify them into Elite Panel, All India Panel and Ranji Trophy Panel of Umpires, according to the merits of the Umpires (subject to reclassification), as per criteria worked out by the Committee. The committee shall hold examinations from time to time for this purpose.

The Petitioner did not establish that his membership with BCCI Panel of Scorers meets this regulatory criterion. Neither BCCI's rules and regulations mention the membership or eligibility requirements for the Panel of Scorers, nor did the Petitioner highlight or indicate where they exist in his documentation.³ Instead, the Petitioner references BCCI's rules and regulations relating to umpire panels rather than scorer panels. Moreover, although [redacted] claimed that "[e]ach Panel consists of the individuals who have attained the highest level of expertise and achievement in the respective category of match officials," the evidence does not corroborate his claims. Furthermore, neither [redacted] nor the Petitioner demonstrated that nationally or internationally recognized experts judge the outstanding achievements for membership with the Panel of Scorers. In fact, the Petitioner asserts that "[p]assing these examinations is the key event," reflecting that membership is based on passing examinations rather than by being judged by recognized national or international experts for outstanding achievements.⁴

For the reasons discussed above, the Petitioner did not demonstrate that he fulfills 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 specification for which classification is sought. 8 C.F.R. 204.5(h)(3)(iv).

This regulatory criterion requires a petitioner to show that not only has an individual been invited to judge the work of others, but also that the individual actually participated in the judging of the work of others in the same or allied field of specialization.⁵ The Petitioner claims eligibility for this criterion based on that he "served as a judge of USA Cricket exhibitions in the United States in the role of an umpire" and references evidence indicating his designation as an umpire for cricket matches in the United States. The record contains background information regarding cricket, including the roles of

³ Page 14 of BCCI's rules and regulations reflect that "'Match Official' includes Umpires, Match Referees, Observers, Statisticians, Ground Staff and Scorers so appointed by the BCCI or a Full Member from time to time," indicating separate and distinct positions and responsibilities within BCCI.

⁴ The record also contains evidence showing that the Petitioner passed screening tests to serve on umpire panels. However, the Petitioner did not establish that membership with BCCI's umpire panels require the judging of outstanding achievements by recognized national or international experts rather than passing examinations.

⁵ See 6 USCIS Policy Manual, *supra*, at F.2(B)(2).

cricket umpires. Specifically, “[t]he umpires indicate no balls, byes, leg byes, wides, boundaries and sixes to the scorers, who keep a running total of the runs scored, while the match referee rules on disciplinary matters,” and “[t]he third umpire uses TV replays to rule on run outs, stumpings, whether a ball has hit the ground before being caught or when it is unclear if the ball has crossed the boundary.”⁶

Again, this regulatory criterion requires a petitioner to show that he has acted as a judge of the work of others in the same or an allied field of specialization. Here, the Petitioner’s evidence does not reflect the duties of a cricket umpire involve evaluating or judging the work of other cricket judges or the skills of cricket competitors as opposed to enforcing the rules of a match and ensuring sportsmanlike competition. *See Victorov v. Barr*, 2020 WL 3213788, at *8 (C.D.C.A. Apr. 9, 2020) (finding a rational connection between the regulation’s phrase “judge of the work of others” and the AAO’s distinction between that and rule enforcement). Without further documentation, such as evidence that he exercised his judgment in choosing the ultimate winner, the Petitioner has not sufficiently shown that the role of a cricket umpire includes participating as a judge of the work of others consistent with this regulatory criterion.

Accordingly, the Petitioner did not establish that he satisfies this criterion.

III. CONCLUSION

The Petitioner did not demonstrate that he satisfies the criteria relating to memberships and judging. Although the Petitioner claims eligibility for two additional criteria on appeal, relating to published material at 8 C.F.R. § 204.5(h)(3)(iii) and leading or critical role at 8 C.F.R. § 204.5(h)(3)(viii), we need not reach these additional grounds because the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3). We also need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Accordingly, we reserve these issues.⁷

Nevertheless, we advise that 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 those progressing toward the top. *See Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm’r 1994) (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of “extraordinary ability,”); *Visinscaia*, 4 F. Supp. 3d at 131 (internal quotation marks omitted) (finding that the extraordinary ability designation is “extremely restrictive by design,”); *Hamal v. Dep’t of Homeland Sec. (Hamal II)*, No. 19-cv-2534, 2021 WL 2338316, at *5 (D.D.C. June 8, 2021) (determining that EB-1 visas are “reserved for a very small percentage of prospective immigrants”). *See also Hamal v. Dep’t of Homeland Sec. (Hamal I)*, No. 19-cv-2534, 2020 WL 2934954, at *1 (D.D.C. June 3, 2020) (citing *Kazarian*, 596 at 1122 (upholding denial of petition of a published theoretical physicist specializing in non-Einsteinian theories of gravitation) (stating that “[c]ourts have found that even highly accomplished individuals fail to win this designation”)); *Lee v. Ziglar*, 237 F.

⁶ See Exhibit A6 submitted at initial filing.

⁷ See *INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach); see also *Matter of L-A-C-*, 26 I&N Dec. 516, n.7 (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

Supp. 2d 914, 918 (N.D. Ill. 2002) (finding that “arguably one of the most famous baseball players in Korean history” did not qualify for visa as a baseball coach). 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 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). The record does not contain sufficient evidence establishing that he is among the upper echelon in his field.

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an individual of extraordinary ability.⁸ 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.

⁸ As the Petitioner has not established his extraordinary ability under section 203(b)(1)(A)(i) of the Act, we need not consider whether he intends to continue to work in his area of expertise under section 203(b)(1)(A)(ii) of the Act and whether he will substantially benefit prospectively the United States under section 203(b)(1)(A)(iii) of the Act. Accordingly, we reserve these issues. *See Bagamasbad*, 429 at 25-26; *see also L-A-C-*, 26 I&N Dec. at 516, n.7.