



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

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

In Re: 20801597

Date: SEP. 09, 2022

Appeal of Nebraska Service Center Decision

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

The Petitioner, a  athlete, 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 Nebraska Service Center denied the petition concluding that the record did not establish that the Petitioner meets the initial evidence requirements for this classification. Specifically, the Director determined that the Petitioner did not establish that he had a qualifying one-time achievement (a major, internationally recognized award), and did not claim, in the alternative, that he was submitting evidence to satisfy at least three of the ten regulatory criteria at 8 C.F.R. § 204.5(h)(3). The matter is now before us on appeal.

In these proceedings, it is the petitioner's burden to establish eligibility for the requested benefit by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). We review the questions in this matter *de novo*. *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). 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 the 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 [redacted] athlete who competes in the sport internationally. He indicates that he will continue to compete as a professional [redacted] athlete in the United States. In addition, the Petitioner states that he intends to contribute to ongoing efforts to introduce [redacted] to the Olympic Games, and to open a school to train future [redacted] athletes.

The Petitioner seeks to establish his eligibility for this classification based on a one-time achievement (a major internationally recognized award). The Petitioner’s counsel has expressly stated that “he is NOT applying under the 3/10 criteria test” by submitting evidence that he satisfies at least three of the ten regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). Accordingly, our review is limited to a determination of whether the Petitioner met the initial evidence requirement for this classification based on a qualifying one-time achievement.

The Petitioner argues on appeal that his most significant awards in international competition are:

- First place [redacted] at the 2017 [redacted] Tour Grand Final tournament
- First place [redacted] in the 2018 [redacted] Tour Grand Slam

As a preliminary matter, we confirm that the record contains sufficient evidence to corroborate these achievements.<sup>1</sup> This evidence includes: photographs of the Petitioner’s trophies for the 2017 [redacted] Grand Final and 2018 Grand Slam (with legible inscriptions); press releases

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<sup>1</sup> On appeal, the Petitioner contends that the Director appeared to overlook or mischaracterize certain evidence related to his athletic accomplishments.

published on the “News” section of the website of the [redacted] Tour [redacted] contemporaneous with the events; tournament results and rankings published by gScore.eu (for the 2017 [redacted] Tour, the 2017 [redacted] Grand Final, and the 2018 [redacted] Grand Slam); and letters from a senior official of the Federation for [redacted] which confirm these two achievements.

While there are references to the Petitioner’s other awards and his rankings in the sport in the record, some of those achievements are not as well documented. For example, there are multiple letters (from [redacted] from the President of the [redacted], and from other [redacted] athletes) that state that the Petitioner was ranked number two in the world at the end of the 2019 season. However, the record does not include any further evidence of this world ranking, evidence that the ranking itself is an “award,” or that is otherwise accompanied by a prize or award. We note that the [redacted] President indicates that the Petitioner has competed in [redacted] World Tour tournaments and a senior [redacted] official states that the Petitioner has consistently competed at the [redacted] World Championships. We do not question the reliability of their statements. However, the only results and rankings the Petitioner has documented with additional supporting evidence are those he achieved in competition on the [redacted] Tour.

Accordingly, we will focus on the Petitioner’s above-referenced achievements in the 2017 and 2018 [redacted] Tour to determine whether he has a qualifying one-time achievement based on his receipt of a major internationally recognized award.

Neither the pertinent statute nor the regulations identify a particular prize or award which qualifies as a one-time achievement. We must look to Congress’ intent that “admission under this category is to be reserved for that small percentage of individuals who have risen to the very top of their field of endeavor.” 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. *Id.* Thus, consistent with legislative history, a one-time achievement must be interpreted narrowly, with only a small handful of awards qualifying as major, internationally recognized awards. We have consistently recognized certain awards (beyond the Nobel Prize) as qualifying one-time achievements, such as the Pulitzer Prize, an Academy Award, and an Olympic Medal.

The selection of Nobel Laureates, the example provided by Congress indicated above, 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 those elements, it is clear from the example provided by Congress that the award must be global in scope and internationally recognized, not just acknowledged within the field as its highest award.

The record contains a letter from [redacted] Chief Organizer of the [redacted] Tour and former [redacted] President, who provides the following description of the tour:

The [redacted] Tour is the most prestigious [redacted] tour in [redacted]. The Tour usually consists of 10 tournaments, spread out across [redacted], plus a Grand Final, the location of which varies yearly. Each tournament awards points to the athletes based

on their performance. The top players from around the world compete in the Tour, which ends with the Grand Final, a prestigious championship tournament that awards more points to players than the average tournaments.

In 2017, [the Petitioner] finished the Tour in second place, in 2018, he finished in first place, while in 2019, he finished in third place. In the same years, he placed number 1, 2 and 5 at the Grand Final, respectively. Each year, the Tour fielded over a hundred [redacted] professionals who earned at least one point in the Tour. . . Each tournament hosts dozens of top players. For example, in 2017, [the Petitioner] won the Grand Final in Portugal, the most prestigious [redacted] tournament in [redacted] ahead of 25 top [redacted] professionals.

As noted, the record contains evidence that the website of the [redacted] Tour publishes press releases with results of its [redacted] tournaments and that such press releases mentioned the Petitioner's successes at the 2017 Grand Final, the 2018 Grand Slam and his top two finishes among [redacted] on the [redacted] Tour in both years. The record, including testimonial evidence from [redacted] and top [redacted] athletes, establishes that these are acknowledged in the field as the top [redacted] awards for [redacted] athletes. However, the record does not support a determination that either of the Petitioner's awards earned on the [redacted] Tour is a major, internationally recognized award that qualifies as a one-time achievement under 8 C.F.R. § 204.5(h)(3).

On appeal, counsel for the Petitioner asserts that the Director's determination that the record does not contain evidence of a one-time achievement "deviates from Service practice," noting that USCIS has "consistently" considered a medal at a world championship or continental championship to be a "major internationally recognized accomplishment." Counsel's brief includes receipt numbers for several of his own previous petition filings in support of his assertion that USCIS service centers have approved extraordinary ability petitions for persons who had won national, continental or international championships in fields such as chess and poker.<sup>2</sup> However, counsel has not cited to any USCIS policy, case law or other binding authority to support his claim that evidence of an award at a continental or world championship is generally deemed to be sufficient to qualify as a one-time achievement under 8 C.F.R. § 204.5(h)(3).

We also acknowledge the Petitioner's contention that many athletes participate in sports that are not included in the Olympic Games. We agree that, in some athletic pursuits, an Olympic medal is not the only qualifying major internationally recognized award. However, not all internationally recognized awards in athletics receive the type of recognition needed to qualify as "major" awards consistent with the one-time achievement contemplated by Congress. In cases where an individual cannot obtain a one-time achievement, including instances where it is not available in a field, the individual "can also qualify on the basis of a career of acclaimed work in the field" by satisfying three of the ten categories of evidence. See H.R. Rep. at 59 and 8 C.F.R. § 204.5(h)(3). In those instances, the regulation at 8 C.F.R. § 204.5(h)(3)(i) allows for an individual to submit lesser internationally recognized awards for excellence in the field. The regulation does not allow a petitioner to substitute

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<sup>2</sup> The evidence submitted with the referenced petitions is not before us for review. Further, we emphasize that we are not bound by a decision of a service center director. See *La. Philharmonic Orchestra v. INS*, No. 98-2855, 2000 WL 282785, at \*3 (E.D. La. 2000), *aff'd*, 248 F.3d 1139 (5th Cir. 2001).

lesser awards as one-time achievements in instances where there is no qualifying major internationally recognized award in the field. Further, there is no comparable evidence for the one-time achievement of a major, internationally recognized award.<sup>3</sup>

As noted, the record establishes that the Petitioner has won Grand Final and Grand Slam events that are considered the highest level of competition among [redacted] athletes on the [redacted] Tour. As evidence of the recognition associated with the award, the Petitioner documented that the website of the [redacted] Tour published press releases reporting the results of these tournaments (highlighting the top finishers among men, women, and seniors) and that the full results of these events were published by the website gScore.eu. The Petitioner did not provide any additional media coverage of these events or provide evidence that either of the sources that published the results are major media outlets. He also provided letters from [redacted] and [redacted] officials and world champion [redacted] athletes attesting to the fact that his achievements represent the top [redacted] awards in the sport. Finally, we note that the record includes a photograph of the Petitioner holding what appears to be a €150.00 cash prize for a second-place finish at the 2018 Portugal Open, which served as the Grand Final of the 2018 [redacted] Tour.

While we do not question the caliber of competition at the annual [redacted] Tour Grand Final and Grand Slam events, the record does not include evidence demonstrating that these competitions receive broad or significant international recognition outside of the sport itself, such as evidence that they receive a level of media attention comparable to that of the Olympic Games or other major internationally recognized athletic competitions. On appeal, the Petitioner compares his achievements to top achievements in other sports, noting, for example, that his 2017 European Tour Grand Final victory is equivalent to “winning Wimbledon.” However, he has not provided evidence that his award garnered a similar level of international recognition, nor has he shown, for example, that his awards were accompanied by large cash prizes or that the awards he received are familiar to persons outside the sport. As discussed above, establishing that an award is acknowledged as a prestigious international award in one’s field is not sufficient absent evidence that the award garners major international recognition of the type contemplated by Congress.

We therefore conclude that the Petitioner has not established that he has received a major, internationally recognized award or that he can satisfy the initial evidence requirement for this classification based on a one-time achievement.

### 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 at 8 C.F.R. § 204.5(h)(3)(i)-(x). As noted, where a petitioner meets the initial evidence requirements at 8 C.F.R. § 204.5(h)(3), we must 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. Here, while the Petitioner asserts that his rankings in his sport support a determination that he has reached the top of his field, he did not meet his burden

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<sup>3</sup> See 6 USCIS Policy Manual F.2 appendix, <https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2>.

to establish that he satisfies the initial evidence requirements for this classification. Accordingly, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20.

The appeal will be dismissed for the above-stated reasons.

**ORDER:** The appeal is dismissed.