



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

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

In Re: 23134411

Date: FEB. 09, 2023

Motion on Administrative Appeals Office Decision

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

The Petitioner, a law enforcement training officer, seeks classification as an individual of extraordinary ability in education. 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. *Id.*

The Director of the Texas Service Center denied the petition, concluding that the record did not establish that Petitioner met at least three of the ten initial evidentiary criteria. On appeal, we decided that while the Petitioner did meet at least three of the ten initial evidentiary criteria, the record did not establish his sustained national or international acclaim or that he was one of the small percentage at the very top of his field of endeavor. Therefore, we dismissed the appeal. The matter is now before us on a combined motion to reopen and reconsider. 8 C.F.R. § 103.5(a)(2)-(3).

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Upon review, we will dismiss the appeal.

I. LAW

An individual is eligible for the extraordinary ability classification if they have extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and their achievements have been recognized in the field through extensive documentation; they seek to enter the United States to continue work in the area of extraordinary ability; and their entry into the United States will substantially benefit prospectively the United States. Section 203(b)(1)(A) of the Act.

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 a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then they must provide documentation that meets at least three of the ten

categories 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).

A motion to reconsider must establish that our decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Any motion that does not meet the applicable requirements will be dismissed. 8 C.F.R. § 103.4(a)(4).

II. ANALYSIS

The Petitioner is a training officer of Brazil's [REDACTED] or [REDACTED] who is also an internationally competitive Brazilian jiu-jitsu (BJJ) athlete. He intends to continue developing and providing law enforcement training programs in the United States.

On motion, the Petitioner reiterates his claim that his [REDACTED] in the World Master International Brazilian Jiu-Jitsu Federation (IBJJF) Jiu-Jitsu Championship [REDACTED] is a major internationally recognized award and constitutes a one-time achievement as defined at 8 C.F.R. § 204.5. He also disputes our decision that he did not meet the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i), (v), and (vi). Because we have already found that the Petitioner met the initial evidentiary requirements by submitting documentation of at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), we will not readjudicate any of the criteria or the issue of whether the Petitioner's medal constitutes a one-time achievement. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach”).

The sole issue on motion is therefore whether the overall record shows the Petitioner's sustained national or international acclaim, that his achievements have been recognized in the field through extensive documentation, and that he is among the small percentage at the very top of his field of endeavor. Section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2); *see also Kazarian v. USCIS*, 596 F.3d at 1119-1120. Upon review, we find that the Petitioner has not shown his eligibility.

A. Motion to Reconsider

The Petitioner asserts on motion that our prior decision does not follow the USCIS Policy Manual guidance to evaluate the totality of the evidence when making the final merits determination. *See generally* 6 USCIS Policy Manual F.2(B)(2), <https://www.uscis.gov/policy-manual>. He also disputes several of the statements made in our prior decision regarding his documentation and achievements.

The Petitioner states that we incorrectly found that his [redacted] is related to the field of competitive BJJ rather than his field of law enforcement training. To support this claim, he cites several instances of U.S. law enforcement agencies training their officers in BJJ as well as his job offer from [redacted] a BJJ school, to help develop a training program for police officers. However, the fact that the Petitioner's knowledge of BJJ is relevant to his work does not establish that his competition medal constitutes acclaim in the field of law enforcement training. Furthermore, the fact that someone has acclaim as a competitive athlete does not indicate that they are also acclaimed for teaching this skill. *See generally* 6 USCIS Policy Manual, *supra* at F.2(A)(2) ("Competitive athletics and coaching rely on different sets of skills and in general are not in the same area of expertise.") There is insufficient documentation in the record to establish that the Petitioner's acclaim as a law enforcement trainer is specifically related to his knowledge of or ability to teach jiu-jitsu. Instead, the record indicates that most of his [redacted] instruction hours have been spent teaching firearms courses, that his highest responsibilities at [redacted] have centered on developing curricula and training policies, and that the course he developed is only partially about grappling or other forms of martial arts.

Furthermore, even if we find that the Petitioner's medal is evidence of acclaim in his field of law enforcement training, which we do not, the record does not indicate that it rises to the level of national or international acclaim. First, the Petitioner competed as a [redacted]. The website of the IBJJF, which hosted the competition, indicates that this is the [redacted] out of eight belt ranks for adults.¹ Additionally, the Petitioner competed in the featherweight class rather than the open class, which is open to competitors of all weights.² The IBJJF website also indicates that unlike other competitions, such as the World Jiu-Jitsu Championship, the World Master Championship is divided by age and restricted to athletes who are at least 30 years old.³ The Petitioner's [redacted] was in the [redacted] [redacted] which is for athletes between the ages of 41 and 45.⁴

The Petitioner's medal was earned in competition that was restricted to a lower belt ranking, which presumably excluded the highest-skilled athletes. The competition was also restricted to a specific age and weight range, whereas other IBJJF competitions do not have these restrictions for top adult competitors. This does not indicate that the medal is a form of national or international acclaim. *See generally* 6 USCIS Policy Manual, *supra* at F.2, Appendix: Extraordinary Ability Petitions – First Step of Reviewing Evidence (noting that limitations on who may compete may indicate that a prize or award is not nationally or internationally significant).

The record also does not show that the Petitioner's medal was acknowledged beyond the IBJJF competition results website and a few social media posts from the [redacted]. *See generally* 6 USCIS Policy

¹ IBJJF, *General System of Graduation* 4, <https://www.ibjff.com/graduation-system> (available as a PDF download) (last visited Jan. 6, 2023).

² *See* IBJJF, *Athlete Ranking Information*, <https://www.ibjff.com/athlete-ranking-info> (stating that open class medals are worth more ranking points than weight division medals).

³ IBJJF, *Results, World Master IBJJF Jiu-Jitsu Championship 2020*, [https://www.ibjjfdb.com/ChampionshipResults/\[redacted\]/PublicResults](https://www.ibjjfdb.com/ChampionshipResults/[redacted]/PublicResults) (showing the Petitioner's competition results divided by age group); *cf.* IBJJF, *Results, World IBJJF Jiu-Jitsu Championship 2021*, [https://www.ibjjfdb.com/ChampionshipResults/\[redacted\]/PublicResults](https://www.ibjjfdb.com/ChampionshipResults/[redacted]/PublicResults) (showing that adult competitors in the World Jiu-Jitsu Championship are not restricted or divided by age).

⁴ IBJJF, *General System of Graduation*, *supra* at 7.

Manual, *supra* at F.2(B)(1) (“It is generally expected that one whose accomplishments have garnered sustained national or international acclaim would have received recognition for his or her accomplishments well beyond the circle of his or her personal and professional acquaintances.”)

Finally, the Petitioner cites his job offer from [redacted] as evidence of his acclaim in his field, noting the IBJJF evidence that [redacted] is the highest-ranked BJJ academy in their athletic competitions. However, the Petitioner’s letter also states that this organization has over a thousand BJJ schools. The Petitioner’s job offer is not from the national or international [redacted] organization, but from one of their many local BJJ schools. It is therefore not apparent that this offer constitutes evidence of the Petitioner’s national or international acclaim as a BJJ or law enforcement trainer.

While we acknowledge the Petitioner’s success at the World Master IBJJF Jiu-Jitsu Championship [redacted] he has not shown that the [redacted] he won is an indicator that he has risen to the very top of his field, or that it is a form of national or international acclaim.

The Petitioner also states that our prior decision did not give sufficient weight to [redacted] [redacted] the [redacted] training course that he developed, and its impact on his field in Brazil. The course has been included in [redacted] national portfolio of training programs since 2018, along with over thirty other courses. The motion cover letter claims that [redacted] was presented to the President of Brazil in 2020, which is evidenced by a photograph of him holding the [redacted]. However, none of the documentation regarding [redacted] which was in the record at the time of our prior decision mentions the Petitioner by name except for internal [redacted] documents and letters of support from his superiors in [redacted]. As noted in our prior decision, the statutory requirement for the extraordinary ability classification is not influence or success but sustained national or international acclaim. While the record indicates that [redacted] has been a useful and successful course for [redacted] it does not establish that the Petitioner himself has received sustained national or international acclaim for it.

We stated in our appeal dismissal that the Petitioner did not provide sufficient information to establish how his high wages compare with those of other high-paid individuals in [redacted] or for what activities a [redacted] officer would receive extra pay. On motion, the Petitioner cites documentation in the record indicating that in 2018, he was the highest-paid instructor in [redacted] and the second-highest-paid individual in the overall agency, and that he received his extra pay for his work in training and curricular development. The Petitioner similarly disputes our characterization of the evidence regarding his participation in various international law enforcement conferences, citing a letter from his superior stating that being invited to participate in these events was prestigious and a sign of his importance to [redacted]. However, while this evidence indicates the Petitioner’s success within [redacted] it does not establish his acclaim beyond his agency, which is necessary to show that this acclaim has risen to a national or international level. *See generally* 6 USCIS Policy Manual, *supra* at F.2(B)(1).

In order to establish eligibility for the extraordinary ability immigrant visa, a petitioner must show their sustained national and international acclaim and that they have been recognized in their field through extensive documentation. Section 203(b)(1) of the Act. The Petitioner has not done so here.

The Petitioner has not established that our decision to dismiss his appeal was incorrect based on the evidence in the record at the time the decision was made. The motion to reconsider will be dismissed. 8 C.F.R. § 103.5(a)(3)-(4).

B. Motion to Reopen

On motion, the Petitioner submits requests from various Brazilian law enforcement organizations to have their personnel attend the [] course; a 2022 list of [] national courses which includes [] and a request to Brazil's Federal Congress to give the Petitioner an award of recognition.

While the Petitioner states that the requests to participate in [] constitute national recognition in his field, none of these letters are addressed to him or mention his name. As stated above, the record establishes that [] is a useful and successful course, and the inclusion of [] in the 2022 [] course list indicates that this agency continues to utilize it. However, this does not establish that acclaim for the Petitioner himself has risen to a national or international level or that he is at the very top of his field.

The Petitioner states on motion that he has received an award of recognition from Brazil's Federal Congress and provides a letter to support this claim. The May 2022 letter, which is addressed to the President of Brazil, is from a Congressman in Brazil's House of Representatives and requests the approval of an award of recognition for the Petitioner. However, there is no indication that this request was approved or that the Petitioner was given this award. We further note that while evidence that arises after the time a petition was filed may be used to demonstrate that a petitioner is sustaining their national or international acclaim through the time of adjudication, petitioners must establish their eligibility as of the time of filing. 8 C.F.R. § 103.2(b)(1).

The Petitioner's letter on motion emphasizes that he meets several of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x) and that this should establish his national or international acclaim. However, these criteria only describe the initial evidence that must be provided, at a minimum, in order to establish eligibility. The fact that a petitioner meets these minimum requirements does not, in and of itself, establish that they are eligible for the extraordinary ability immigrant visa. *See generally* 6 USCIS Policy Manual, *supra* at F.2(B)(2).

The new evidence provided on motion does not establish that the Petitioner's achievements with [] have translated into a level of recognition that constitutes 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. Furthermore, this new evidence 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. Section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2). The motion to reopen will be dismissed. 8 C.F.R. § 103.5(a)(2), (4).

ORDER: The motion to reconsider is dismissed.

FURTHER ORDER: The motion to reopen is dismissed.