



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

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

In Re: 28561101

Date: NOV. 01, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a soccer coach, 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 met the initial evidence requirements for this classification by satisfying at least three of the ten criteria under 8 C.F.R. § 204.5(h)(3) or demonstrating his receipt of a major, internationally recognized award. The matter is now before us on appeal. 8 C.F.R. § 103.3.

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). We review the questions in this matter de novo. *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

An individual is eligible for the extraordinary ability immigrant classification under section 203(b)(1)(A) of the Act 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 country to continue working in the area of extraordinary ability; and
- Their entry into the United States will substantially benefit the country in the future.

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 a 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).

II. ANALYSIS

The Petitioner is a former professional soccer player who has approximately 20 years of coaching experience in the sport. He indicates that he intends to continue working as a soccer coach in the United States.

A. Evidentiary Criteria

The Petitioner does not claim to qualify for extraordinary ability classification based on a one-time achievement; therefore, he must submit evidence meeting at least three of the ten initial evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner has consistently claimed that he can satisfy five of the ten criteria, summarized below.¹

- Membership in associations that require outstanding achievements;
- Published materials in major media or other qualifying publications;
- Participating as a judge of the work of others in the same or allied field;
- Leading/critical roles for organizations with a distinguished reputation; and
- High salary or other significantly high remuneration, in relation to others in the field.

The Director concluded that the Petitioner did not provide evidence satisfying any of the claimed criteria. On appeal, the Petitioner maintains that the previously submitted evidence is sufficient to satisfy all five criteria.

The Petitioner further contends that the Director erred by observing that competitive athletics and coaching “rely on different sets of skills and in general are not in the same area of expertise.” The Petitioner cites a non-precedent AAO decision in support of his claim that it is possible for an individual’s area of extraordinary ability or expertise to encompass both athletic competition and coaching other athletes, provided that the totality of the evidence establishes sustained acclaim and extraordinary ability in coaching. In cases involving athletic coaches who are former competitive athletes, we generally make such a determination on a case-by-case basis based on the facts presented.

¹ On appeal, the Petitioner has not pursued his initial claim that he could satisfy a sixth criterion, relating to his receipt of lesser nationally or internationally recognized awards for excellence in his field under 8 C.F.R. § 204.5(h)(3)(iv). An issue not raised on appeal is waived. *See, e.g., Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012)).

The Petitioner, despite indicating that he played professional soccer for 15 years and enjoyed sustained acclaim as soccer player, submitted little evidence related to his playing career and did not seek to meet any of the criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x) based on his activities or achievements as a professional athlete. Therefore, the Director's decision was reasonably based on the Petitioner's documented accomplishments as a soccer coach.

For the reasons provided below, we conclude that the Petitioner has not demonstrated that he satisfies the requirements of at least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

Documentation of the individual'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)

The Petitioner claims eligibility under this criterion based on his receipt of a "Class B" license certificate from the [redacted] (CBF).² The evidence shows that he received this license after completing a 200-hour course with the CBF Academy in February 2019. Supporting documentation describing the CBF Academy's programs indicates that the specific Class B licensing course the Petitioner completed was designed "for professionals who work or want to work in football as coaches in . . . youth teams." A photocopy of the Petitioner's CBF license indicates he is registered as a "B – Youth Football Coach."

The record includes information from the CBF Academy website identifying prerequisites for registration in its Class B licensing programs, as well as a declaration from the academy director listing the theoretical and practical classes the Petitioner completed. The listed prerequisites include: (1) completion of a C License; (2) proven experience of at least seven full seasons as a professional football athlete; or (3) proven experience of at least five seasons as head coach of Base Category teams. These prerequisites appear to apply to those seeking a "License B – Football Coach" qualification; it is unclear based on the evidence provided that the same requirements apply to those seeking the "Youth Football Coach" license.

The Director determined that the evidence did not demonstrate that the CBF "conferred membership" to the Petitioner, but rather reflects that he "took several training courses" required to obtain a license as a soccer coach. The Director also concluded the Petitioner did not show that CBF requires outstanding achievements, as judged by recognized national or international experts, as an essential condition for licensure.

On appeal, the Petitioner asserts that "CBF's requirements are indicative of outstanding achievements, thus rendering the underlying denial erroneous." Specifically, he states that he completed a "rigorous program that covered a wide range of topics" and emphasizes that the "CBF Academy is an institution that is focused on excellence." He summarizes the previously submitted evidence, notes that CBF

² The Petitioner initially claimed eligibility under this criterion based on his membership in the Union of Professional Coaches of the State of [redacted] but did not pursue this claim when responding to the Director's request for evidence (RFE) or in his brief on appeal. Nevertheless, we note that he did not submit any supporting evidence of this organization's membership requirements and therefore did not establish that he qualifies under 8 C.F.R. § 204.5(h)(3)(ii) based on this membership.

places a strong emphasis on the development and training of coaches, and stresses that he “met all of the prerequisites and passed all necessary assessments to become a licensed coach under the B License category.”

We do not question the value of the licensing programs offered by the CBF Academy or that institution’s commitment to excellence in the sport. However, the prestige or reputation of a given association or organization is not determinative; the issue here is the association’s membership requirements rather than its overall reputation. Here, we agree with the Director’s determination that the Petitioner did not provide evidence that his attainment of the Class B youth coaching license satisfies the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(ii).

The record does not contain evidence that CBF is an association that limits membership to prospective members whose achievements have been judged as outstanding by recognized national or international experts in the sport. Rather, it indicates that CBF issues coaching licenses to those who have enrolled in and completed licensing programs offered by the CBF Academy. Enrolled students must attend all classes and achieve a 70% minimum average on assessments throughout the course to successfully complete it. The Petitioner emphasized that the course instructors are experts in the field but did not articulate how the instructors’ assignment of passing marks amounts to a determination that a prospective license holder has outstanding achievements in the sport. The record lacks evidence that any further review is undertaken by CBF once an individual completes all course requirements and therefore does not otherwise establish that “membership” is based on an assessment that a prospective license-holder has outstanding achievements as a coach.

We acknowledge evidence that certain CBF Academy courses have prerequisites for registration and those prerequisites include evidence that a person has a certain number of years of coaching or playing experience. However, the Petitioner did not show that these prerequisites amount to a requirement that a prospective license holder have “outstanding achievements” in the field or that a person’s qualifications are reviewed by recognized national or international experts before they are permitted to enroll in CBF Academy coaching programs.

For the reasons provided, the Petitioner has not established that he meets the criterion at 8 C.F.R. § 204.5(h)(3)(ii).

Evidence that the individual has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii)

To satisfy this criterion, a petitioner must show that they performed in a leading or critical role for an organization or establishment, or for a division or department of an organization or establishment. Evidence of experience should consist of letters from employers and should contain detailed information specifically addressing how the person’s role was leading or critical. “Distinguished” means “marked by eminence, distinction, or excellence.”³ A determination regarding whether an organization or establishment (or a department or division thereof) has a distinguished reputation is based on factors that may include, but are not limited to, evidence of relevant media coverage,

³ See *Merriam-Webster Dictionary* definition of “distinguished,” <https://www.merriam-webster.com/dictionary/distinguished>.

rankings, or other recognitions received by the organization or establishment. *See generally* 6 USCIS Policy Manual F.2(B)(1), <https://www.uscis.gov/policy-manual> (discussing the evaluation of evidence submitted to satisfy the initial evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x)).

In support of this criterion, the Petitioner initially submitted letters from representatives of [redacted] Football Club [redacted] FC), Football [redacted] Football Association [redacted], and [redacted] Soccer Club. Although the letters briefly confirmed the Petitioner’s employment⁴ with these organizations, they did not articulate the nature of his duties or contributions, or otherwise establish how his role was leading or critical for the organization, or a division or department of the organization.

The Petitioner also submitted several recommendation letters from soccer coaches and former professional players who have worked with him, accompanied by evidence related to the authors’ individual achievements as athletes and coaches in the sport. While the authors of these letters praised the Petitioner’s talent, commitment and abilities as a soccer coach and discussed aspects of his coaching career, they did not address the elements of the criterion at 8 C.F.R. § 204.5(h)(3)(viii).

In the RFE, the Director advised the Petitioner that the submitted letters did not provide specific information necessary to establish that his role was leading or critical, by establishing that he contributed in a way that was significantly important to the outcome of an organization or establishment’s activities. The Director also noted that the initial evidence did not include documentary evidence to demonstrate that he has worked for an organization or establishment that has a distinguished reputation.

In response, the Petitioner submitted additional evidence and indicated that he meets this criterion based on his leading roles with [redacted] FC, Football [redacted]. He provided a new letter from the City Football Schools Coordinator of the [redacted] FC, who stated that the Petitioner “was hired as a Coach to perform training sessions with our team and students that attend our prestigious school.” He noted that the Petitioner’s contribution was “of crucial importance and without his presence our organization would not have the current success that we do,” emphasizing that the professional team, in 2022, “won the A-League premiership and came in second in the entire Championship.” The Petitioner also submitted information from Wikipedia regarding [redacted] FC, which discusses the history and achievements of the club.⁵

On appeal, the Petitioner emphasizes his “role as a head coach for [redacted] Football Club,” noting that the team plays in the top level within the Australian Professional Leagues. However, the evidence indicates that, in March 2022, the Petitioner accepted a “casual employment position” with [redacted] FC to be a coach within “[redacted] Sporting Schools,” where he would be responsible for providing “a safe, inclusive and fun experience for the children.” His employment offer indicated he may perform additional coaching roles by participating in coaching clinics and as part of the organization’s City Club program, working with local clubs.

⁴ The author of the letter from [redacted] FC, indicated that he “interviewed [the Petitioner] for a coaching position in our program,” and did not expressly state that he was ultimately hired or what position he held. However, the initial evidence also included an offer of “casual employment” from this organization, signed by the Petitioner in March 2022.

⁵ Wikipedia is an online, open-content collaborative encyclopedia that explicitly states it cannot guarantee the validity of its content. *See* General Disclaimer, Wikipedia, https://en.wikipedia.org/wiki/General_disclaimer.

Therefore, although the Petitioner appears to claim on appeal that he served as head coach of the professional team that achieved a high level of success in Australia's top league in 2022, that claim is uncorroborated in the record. The Petitioner established that he was hired, on a casual "per session" basis, to provide coaching services to other departments or divisions within the [redacted] FC organization, including departments focused on programs for children and community programs designed to increase the visibility of the organization. The Petitioner did not meet his burden to establish that he served in a leading or critical role for the overall organization or that he held a leading or critical role within a department or division of the organization. Moreover, the record does not contain sufficient, objective evidence to establish the distinguished reputation of [redacted] Sporting Schools or any other [redacted] FC division or department that may have used the Petitioner's services under the terms of the casual employment agreement.

The Petitioner's response to the RFE also included an updated letter from the SAP development manager at Football [redacted] who stated that the Petitioner had been coaching within the Football [redacted] SAP program in Australia since February 2022, working with players between the ages of 9 and 12. The author explained that Football [redacted] is "the organization responsible for the professional [redacted] football teams" and "it is of key importance that players who intend on having a professional career in football have training from an early age." He further stated that the Petitioner "has been a key factor in making our players succeed."

The Petitioner submitted the Wikipedia entry for Football [redacted] which describes the organization as "the state governing body for soccer in [redacted] Australia" and notes its affiliation with Football Australia. However, he did not provide any other evidence in support of his claim that the organization enjoys a distinguished reputation. The information from Wikipedia, even if its validity could be guaranteed, is limited and only briefly describes the history and formation of Football [redacted] and the pyramid of soccer leagues operating in the state.

Further, the letter from the organization indicates that the Petitioner's role was limited to working with children in the SAP program and does not support a determination that he held a leading or critical role within the broader organization. The record does not contain evidence relating to the SAP program or its distinguished reputation and does not sufficiently establish how the Petitioner's several months of coaching experience within this program was significantly important to the outcome of this program, department, or division. The organization's broad claim that he "has been a key factor in making our players succeed," is insufficient to demonstrate how the Petitioner's role with this organization satisfied the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(viii). On appeal, the Petitioner states that he "was instrumental in preparing the next generation of soccer players and ensuring the continued success of soccer in [redacted] and therefore "had a direct impact on the reputation, revenue and performance of Football [redacted] as an organization." However, these claims are not substantiated by the letter from Football [redacted] or other evidence in the record.

Finally, the RFE response included a letter from the general manager of the [redacted] who stated that the Petitioner had served "as a coaching director for the Association as a whole," responsible for preparing and administering coaching courses "to improve the abilities of both our players and coaches within our league." She further states that the Petitioner's work is "crucial to the success of our teams," that his "high level performance has led many of our teams to victory in past tournaments" and that "his role in our organization has been of high value." The Petitioner also submitted a document titled "[redacted]

History” but did not identify the source of the information contained therein. While the letter from the organization suggests that the Petitioner’s coaching director position with [redacted] may be a leading or critical role, the Petitioner did not meet his burden to establish that this organization, described on appeal as a “volunteer-run, Christian-based soccer club” enjoys a distinguished reputation.

For the reasons discussed, the Petitioner has not established that he satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(viii).

Evidence that the individual has commanded a high salary or other significantly high remuneration for services, in relation to others in the field. 8 C.F.R. § 204.5(h)(3)(ix)

In support of this criterion, the Petitioner provided a copy of his contract with [redacted] which describes his remuneration package as of his date of hire in March 2022. This evidence indicates that he received an annual wage of \$70,920 and total remuneration of \$96,017 as a full-time senior soccer coach.

The Petitioner’s initial evidence included information from Payscale.com indicating that in 2022, the average annual base salary for a head football coach was A\$47,500, with the top 25% of earners receiving a salary of A\$63,000 or higher. The Petitioner submitted additional comparative salary data in response to the RFE which included: (1) data on employee earnings from the Australian Bureau of Statistics (ABS) indicating that workers in “Education and Training” occupations earned median wages of approximately A\$1300 per week (\$67,600 annually) in 2022; (2) information regarding coach salaries in Australia from Talent.com, which indicates an average or median annual salary of A\$78,020 with “most experienced workers” earning over \$122,000; and (3) 2021 wage data for “coaches and scouts” from the U.S. Bureau of Labor Statistics (BLS).

The Director determined that the Petitioner did not meet this criterion; however, as noted by the Petitioner on appeal, the decision did not discuss all evidence submitted in response to the RFE. Specifically, the Director’s discussion of comparative wage data for Australia was limited to a reference to the information from Payscale. The Director observed that the salary information from this source “is limited to those who reported their salaries to the website, and the petitioner cannot confirm the accuracy of the self-reported information.” The Petitioner maintains that USCIS policy guidance specifically allows for the submission of compensation surveys such as those published by Payscale.com. We agree with the Petitioner that position-appropriate compensation surveys may be considered in evaluating whether an individual meets this criterion. However, some websites that rely on user-reported salary data may not provide a valid comparison if, for example, too few users reported their salaries, which may impact the reliability of the data. *See generally* 6 USCIS Policy Manual, *supra*, at F.2(B)(1).

To support his claim that he earned a high salary in relation to other coaches in Australia, the Petitioner submitted data from Payscale.com that was based on 11 reported salaries and data from Talent.com that was based on 846 salaries. Based on the relative sample sizes, it is reasonable to determine that the Talent.com survey is the more reliable survey for purposes of comparison. We acknowledge the Petitioner’s base salary of A\$70,970 and total remuneration of A\$96,017 fall above the 75th percentile for base salary and “total pay” reported by Payscale.com. However, the average annual salary reported by Talent.com is A\$78,020, which is higher than the Petitioner’s base annual wage. While the

Petitioner's total remuneration is higher than this average salary, the survey does not provide data for the total remuneration of coaches in Australia and therefore cannot support a finding that the Petitioner's remuneration is "significantly high" in relation to others. Further, we note that the Talent.com survey indicates that the highest earners in the occupation are paid salaries up to A\$122,194. Therefore, the data from Talent.com does not support the Petitioner's claim that he earns a high salary in relation to others working in Australia.

We have also considered the salary data for "education and training" occupations published by ABS. While we do not doubt the reliability of this government-provided data, it is not specific to the Petitioner's industry or occupation. Data that includes multiple occupations or multiple industries may not provide an accurate comparison to others in the field. *See generally*, 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). Further, the information from ABS indicates that the median annual wage for persons employed in "education and training positions" in Australia is A\$67,600. While the Petitioner's base salary is slightly higher than this reported median wage, the Petitioner must show that he earns a "high salary" or "other significantly high remuneration," rather than an "above average" salary. Further, he cannot meet this criterion by comparing his total remuneration package to surveys or other data that only report on base salaries. Therefore, the salary information provided by ABS does not support the Petitioner's claim that he has commanded a high salary or other significantly high remuneration in relation to others.

While we acknowledge the Petitioner's submission of BLS salary data for coaches, we evaluate persons working outside the United States based on the wage statistics or comparable evidence relevant to their work location, rather than by simply converting the salary to U.S. dollars and then viewing whether that salary would be considered high in the United States. The Petitioner has not claimed that he has commanded a high salary for a U.S.-based position and therefore the BLS data is not relevant to our evaluation of this criterion.

For the reasons discussed above, the Petitioner has not established that he has commanded a high salary or other significantly high remuneration based on his employment in Australia. We acknowledge that the Petitioner initially provided evidence of his salary as a coach in Thailand and Malaysia, where he worked between 2003 and 2010. However, the Petitioner submitted no comparative salary data for coaching occupations in Thailand. While he provided average salary data for coaches in Malaysia from Indeed.com, the data was from 2022 and was based on a small sample of only eight reported salaries. In the RFE, the Director acknowledged the Petitioner's claim that he earned a high salary in Malaysia but explained that the submitted information from Indeed.com was insufficient. The Petitioner's response to the RFE did not include additional evidence in support of his claim that he commanded a high salary while employed in Malaysia, and we agree with the Director's determination that the initial evidence was insufficient to meet his burden.

For all the reasons discussed, the Petitioner has not demonstrated that he meets the criterion at 8 C.F.R. § 204.5(h)(3)(ix).

B. Summary and Reserved Issues

The record does not establish that the Petitioner meets the three evidentiary criteria discussed above. As such, the Petitioner has not met the initial evidentiary requirement of three criteria under 8 C.F.R.

§ 204.5(h)(3). Detailed discussion of the two remaining criteria at 8 C.F.R. § 204.5(h)(3)(iii) and (iv) cannot change the outcome of the appeal. Therefore, we reserve and will not address these remaining claimed criteria. *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 D-L-S-*, 28 I&N Dec. 568, 576-77 n.10 (BIA 2022) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

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. As a result, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we advise that we have reviewed the record in the aggregate and conclude that it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification. USCIS 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 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 sustained national or international acclaim in the field, and that 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).

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