



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

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

In Re: 28423802

Date: SEP. 08, 2023

Appeal of Texas Service Center Decision

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

The Petitioner, a professional 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 the Petitioner meets the initial evidence requirements for this classification, either through his receipt of a major, internationally recognized award, or by satisfying at least three of the ten evidentiary criteria set forth in the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x). 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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

## I. LAW

To qualify for the requested immigrant visa category, a petitioner must demonstrate that:

- They have “extraordinary ability in the sciences, arts, education, business, or athletics;”
- They seek to continue work in their field of expertise in the United States; and
- Their work would substantially benefit the country.

Section 203(b)(1)(A)(i)-(iii) of the Act.

The term “extraordinary ability” refers 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 may demonstrate

international recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). Absent such an achievement, a petitioner must provide sufficient qualifying documentation demonstrating that they meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

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 transitioned to professional coaching after his retirement. He has served as the head coach and technical director of professional soccer teams in Venezuela, Ecuador, and Colombia, and as the head coach of the Venezuelan men's U20 and senior national teams between 2000 and 2007. The record reflects that, in addition to coaching, he has been asked to lend his expertise to soccer development projects undertaken by the Venezuelan Olympic Committee and CONMEBOL (the South American Football Confederation, the governing body of the sport in South America), and to serve as a lecturer on coaching techniques at various conferences.

Because the Petitioner has not indicated or shown that he received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner claimed that he could meet the criteria at 8 C.F.R. § 204.5(h)(3)(i), (ii), (iii), (iv), (v), (viii), and (ix), based on his receipt of nationally recognized awards, his memberships in associations in his field, published material about him, his performance as a judge of the work of others in the field, his original contributions to the sport, his leading or critical roles with organizations that enjoy a distinguished reputation, and the comparatively high salaries he has commanded as a coach.

The Director determined that the Petitioner met two of the regulatory criteria by demonstrating his membership in associations that require outstanding achievements as judged by recognized national or international experts, and by providing evidence of his participation as a judge of the work of others in his field of expertise. *See* 8 C.F.R. § 204.5(h)(3)(ii) and (iv). The record supports this determination.

On appeal, the Petitioner asserts that the Director did not properly weigh the evidence he submitted in support of several additional criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). He places particular emphasis on the criterion at 8 C.F.R. § 204.5(h)(3)(viii), which requires evidence of his performance in leading or critical roles for organizations or establishments that have a distinguished reputation. The Director determined that the Petitioner held a leading or critical role within the Venezuelan Football Federation as the long-time head coach of the Venezuelan men's national team and acknowledged that the Petitioner submitted supporting evidence intended to establish the distinguished reputation of the federation and team. However, the Director ultimately dismissed this evidence after determining that the Petitioner did not submit sufficiently demonstrate that the submitted newspaper, magazine and televised coverage of the team were published in major media outlets, a requirement that does not

appear in the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(viii). The Director therefore found insufficient evidence to establish the distinguished reputation of the organization that employed the Petitioner in a leading or critical role.

The record contains evidence that the Venezuelan Football Federation is recognized as the national governing body of the sport by football's international governing body (FIFA) and that the national team, comprised of top players representing their country in international competition, enjoyed favorable domestic and international media coverage during the Petitioner's tenure as coach, with much of the team's unprecedented success attributed to him. We conclude the previously submitted evidence is sufficient to demonstrate that the Petitioner served in a leading or critical role for an organization with a distinguished reputation.

Accordingly, the Petitioner has established that he meets the initial evidence requirement for classification as an individual of extraordinary ability by meeting at least three of the evidentiary criteria. He has therefore overcome the basis for the denial of his petition.<sup>1</sup> However, as noted above, meeting the initial evidence requirement does not suffice to establish eligibility for this classification. We will therefore remand the matter to the Director to make a final merits determination in the first instance.

In doing so, the Director should consider all evidence submitted in support of the petition to determine whether the Petitioner has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim and whether the record demonstrates that he is one of the small percentage at the very top of 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. This review should include evidence that was not found to meet the requirements of any individual criteria at 8 C.F.R. § 204.5(h)(3).

For example, the record indicates that the Beneficiary has been showcased in books documenting the rise of soccer's popularity in Venezuela since the early 2000s, has been profiled by CNN Espanol, and was featured in a documentary about the Venezuelan men's national teams that competed in international competition during his tenure as the team's coach. While the Director determined that the Petitioner's evidence did not satisfy the criterion related to published materials at 8 C.F.R. § 204.5(h)(3)(iii), this evidence is nevertheless relevant to an evaluation of the Petitioner's claim that his achievements and contributions have been recognized in his field and that he has achieved national or international acclaim as a coach.

The Director's review should also consider the evidence submitted in support of the Petitioner's appeal. After reviewing the record in its entirety, the Director shall issue a new decision.

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<sup>1</sup> Because he meets at least three of the ten initial evidentiary standards, a final merits determination is required under *Kazarian*. Accordingly, we need not review the Director's findings regarding the criteria relating to the Petitioner's awards, published materials about him, his original contributions to the sport, and his past earnings as a coach. *See INS v. Bagambada*, 429 U.S. 24, 25 (1976) (stating that agencies need not make "purely advisory findings" on issues unnecessary to their decisions); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach an alternative appellate issue where an applicant did not otherwise qualify for the requested relief).

### III. CONCLUSION

Because the Petitioner has overcome the stated reason for denial, we remand this proceeding so that the Director can render a final merits determination in keeping with the *Kazarian* framework.

**ORDER:** The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.