



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

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

In Re: 32343994

Date: FEB. 29, 2024

Appeal of Nebraska Service Center Decision

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

The Petitioner, a mixed martial arts (MMA) fighter, seeks classification as an individual of extraordinary ability in the athletics. *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 satisfied the initial evidence requirements for this classification by demonstrating her receipt of a major, internationally recognized award or by meeting at least three of the ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3). 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

Under section 203(b)(1)(A) of the Act, an individual is eligible for the extraordinary ability classification if: (i) 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; (ii) they seek to enter the United States to continue work in the area of extraordinary ability; and (iii) their 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 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, the 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, 1119 (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 an athlete who competes as a [redacted] (individuals who weigh between [redacted] and [redacted] pounds) MMA fighter. If approved this classification, she intends to continue competing, and when she is not competing, she plans to mentor, train, and coach fighters at all levels of their career. She asserts she has an interest in promoting the sport among women in the United States and throughout the world through her network of social media followers. She is working towards obtaining an MMA license in Illinois and will use her experience as a competitor to train other fighters and the next generation of Americans in her sport. She asserts she is eager to create world champion competitors and that she is against steroid use and wants to promote that message.

The Director concluded that the Petitioner has not established that she has received a major, internationally recognized prize or award under 8 C.F.R. § 204.5(h)(3) and that the evidence in the record demonstrates that she only meets one of the ten alternate criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), of which she must meet at least three. Specifically, the Director held that she only met the criteria for lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor under 8 C.F.R. § 204.5(h)(3)(i).

On appeal, the Petitioner asserts that she is a “world-renowned female MMA competitor” and that she is celebrated as a multi-talented, professional female MMA athlete. She further asserts that she meets the alternate criteria: awards at 8 C.F.R. § 204.5(h)(3)(i), membership at 8 C.F.R. § 204.5(h)(3)(ii), published material at 8 C.F.R. § 204.5(h)(3)(iii), and command of high salary at 8 C.F.R. § 204.5(h)(3)(ix). For the reasons discussed below, the Petitioner has not established that she satisfies the requirements for an individual of extraordinary ability in athletics.

A. Major International Award

The Director determined the Petitioner has not established that she has earned a one-time achievement of a major, internationally recognized award under 8 C.F.R. § 204.5(h)(3). This regulation is consistent with the legislative history of section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), stating that a one-time achievement must be a *major, internationally recognized* award. *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. On appeal, the Petitioner does not contest the Director’s conclusion that she has not received a major

international award. As such, the issue is deemed waived. *See, e.g., Matter of M-A-S-*, 24 I&N Dec. 762, 767 n.2 (BIA 2009).

B. Evidentiary Criteria

Documentation of the noncitizen's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i)

The Director determined the Petitioner meets this criterion, and we agree based on the numerous awards she has received, including: first place as the [redacted] Championship (March 2012); first place winner of the [redacted] Championship in her weight class (November 2016); [redacted] Championship (April 2018); first place, gold medal win at the Judo Championship [redacted] among Women in her weight class (2012); first place in [redacted] in her weight class (award has no associated date); and first place at the [redacted] Championship of Russia in her weight class in (September 2013). As such, this criterion is established.

Documentation of the person'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 asserts her eligibility for this criterion based on her association with the [redacted]

[redacted] The Director concluded that her evidence did not meet the plain language of the regulation because the Petitioner did not establish these associations require outstanding achievements of their members as judged by recognized national or international experts in the field of MMA. Specifically, the Director evaluated the letters she provided from [redacted] Ph.D. in Sports Training-Russia-Human Performance-Exercise Science, and from [redacted] general manager of [redacted] and found the information insufficient because “no evidence was submitted to show the section of the association’s constitution or bylaws which discuss the criteria for membership for [her] level of membership in the associations,” “no evidence was submitted to establish that the individuals who review prospective members’ applications are recognized as national or international experts in their disciplines or fields,” and “no evidence was submitted to show the section of the association’s constitution or bylaws which discuss the qualifications required of the reviewers on the review panel of the association.”

On appeal, the Petitioner asserts she provided the [redacted] bylaws, and that her response to the Director’s request for evidence (RFE) included sufficient evidence to establish her eligibility for this criterion.¹

¹ For the first time on appeal, the Petitioner submits the [redacted] bylaws or charter, which we decline to consider because the Director’s request for additional evidence (RFE) notified the Petitioner of the need to submit this information, and on appeal, she has not attempted to explain why this evidence was not reasonably available earlier. *See Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988) (requiring rejection of appellate evidence where a party

Upon de novo review, we agree with the Director’s conclusion because while the evidence establishes the Petitioner has competed at a high level in MMA, the letters do not establish the criteria used for entry into these associations. Furthermore, it is unclear if the [redacted] and [redacted] are associations within the meaning of the regulation. For instance, [redacted] and [redacted] appear to be companies that employ and promote the Petitioner’s fights, whereas [redacted] and [redacted] appear to be training facilities.

[redacted] letter states that membership in the [redacted] requires a “combination of talent, hard work, and dedication to MMA as a sport.” He also provides background information about the sport of MMA and his personal qualifications. He confirms the Petitioner is a brand ambassador for the [redacted] fighting club in Russia, and a member of the [redacted] fighting team and [redacted]. He explains that she represented Russia on the [redacted] and the [redacted] fighting team. He describes the [redacted] as a leading promoter of the sport MMA and explains the Petitioner signed a contract with [redacted] (which owns the [redacted]) because of her success as an MMA fighter. He offers that the Petitioner was given the title of National MMA Champion and winner of the [redacted] and [redacted] bouts, which were awarded to her by world-renowned referees and judges based on the MMA, [redacted] and [redacted] world ranking systems. He further states that “[b]y winning the [redacted] and [redacted] Championships, [she] was determined to be one of the best female athletes in the world, as well as one of the best representatives of [Russia], and as an outstanding achiever in the female world of MMA sports.” He also confirms that she received money and certificates from the Russian government because of her achievements and concludes that she is an internationally recognized fighter in the field of MMA.

[redacted] statement however is insufficient to establish the Petitioner’s burden because it does not provide the criteria used for entry into the above-mentioned associations such that we can meaningfully understand how the Petitioner was chosen to join these MMA entities, or how selective these MMA entities are in their selection process. For instance, he describes how the Petitioner’s talent, hard work, and dedication are attributes used to select her for [redacted] however this is insufficient to meet the standard set forth in the regulation which requires “outstanding achievements of their members.” Furthermore, [redacted] statement does not identify the judges or national or international experts that evaluated the Petitioner’s fitness to join these entities. Without more information, the Petitioner has not met her burden by submitting [redacted] statement. *See Matter of Chawathe*, 25 I&N Dec. at 375-76 (noting that a petitioner must establish, by a preponderance of the evidence, all relevant facts).

[redacted] letter confirms he is general manager of [redacted] and that the Petitioner’s is a [redacted] brand ambassador. The Petitioner also provides her sponsorship agreement, which outlines the nature of her business relationship with [redacted]. Other letters provided confirm she is a professional fighter at the [redacted] since 2014 and of the [redacted] and the [redacted] since 2013. The letter from the owner and head instructor of [redacted] explains that membership requires outstanding achievements from its members and that [redacted] is home to some

received prior notice of the required materials and a reasonable opportunity to submit them); *see also Oyeniran v. Holder*, 672 F.3d 800, 808–09 (9th Cir. 2012) (stating that “[i]t is not sufficient that the evidence physically existed in the world at large; rather, the evidence must have been reasonably available to the petitioner.”). Therefore, we decline to review the bylaws.

of the best MMA fighters in the world, however no other details are provided to understand the criteria used to accept a fighter into the [] such that it would be sufficient to establish the plain language of the regulation. *Id.*

[] a “lead/supervisor” at [] explains that the [] is a professional MMA organization and “only those martial artists who are at the pinnacle of their chosen field of mixed martial arts are chosen.” However, the letter lacks sufficient details regarding the criteria used to accept MMA fighters into the [] to understand what is entailed to become a [] fighter. [] Owner and Head Instructor provides a letter asserting that membership requires “outstanding achievements,” however as noted above, no additional detail is provided to meaningfully understand the [] criteria for its selection of fighters.

The Petitioner provided two contracts. The [] contract explains her agreement with [] which promotes her MMA fights. The contract’s provisions cover her fees, as well as issues concerning her media exposure. For example, it states she will be paid \$8,000 for her first bout minus all permissible or required deductions, and that if she is declared winner of the first bout, her “purse” for the second bout will be \$10,000, less all permissible or required deductions, and that if she wins the second bout, her purse for the third bout will be \$12,000. None of the remaining contract’s provisions discuss the criteria used to choose which fighters will join the [] The other contract is between [] and the Petitioner and concerns a promotional agreement between the parties. Like the [] contract, this contract covers fees, conduct, breach, insurance, medical issues, and contains other contractual clauses to govern their relationship. However, neither of the contracts contains provisions that discuss the “outstanding achievements of their members” or what criteria is used to select an MMA fighter. As such, the contracts do not provide sufficient evidence to establish the plain language of this criterion. *Id.*

The Petitioner asserts that fighting for [] and training with [] means she is part of an elite group of MMA fighters. She also asserts that membership in the professional fighting league of [] requires outstanding achievements of its members in martial arts. With her RFE response, she submitted a letter from [] founder of [] which she asserts is the [] MMA organization. This letter names several top fighters that are [] Fighters and calls the Petitioner “an outstanding competitor,” and confirms that she joined [] in January 2017. [] further asserts the Petitioner “has competed and won international mixed martial arts contests and she is highly ranked in international MMA rankings.” Finally, she claims only those “female martial artists who are at the pinnacle of their chosen field of mixed marital arts are chosen to participate in [] events,” and that her contract with [] is for three fights for which she will receive guaranteed fees, which increase with each subsequent fight. While this letter confirms the Petitioner’s reputation as a successful MMA fighter, it does not provide sufficient detail to understand the criteria used by [] to choose fighters. Furthermore, as stated above, the Petitioner has not established that a promotional organization, such as [] should be considered an association, within the meaning of this criterion, because [] acts as the Petitioner’s employer and promoter. Finally, the assertions in the letter are not supported by objective evidence, and therefore are insufficient to meet her burden. *Id.*

In sum, while the evidence establishes that the Petitioner is a paid MMA fighter who trains for her fights at specialized MMA gyms, and that she has entered into contracts with MMA promoters, the

evidence remains insufficient to establish she is a member of 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. Moreover, there is insufficient evidence to establish that her selection for the [redacted] and the [redacted] fighting team meets the plain language of the regulation. As such, this criterion has not been met.

Evidence of published material about the individual in professional or major trade publications or other major media, relating to their work in the field for which classification is sought. Such evidence must include the title, date, and author of the material, and any necessary translation. 8 C.F.R. § 204.5(h)(3)(iii)

To meet this criterion, the published material must be about the Petitioner and related to her specific work in the field for which classification is sought; it must include the title, date, and author of the material and any necessary translation; and the publication must qualify as a professional publication, major trade publication, or major media publication. 8 C.F.R. § 204.5(h)(3)(iii). Evidence of published material in major media publications about the Petitioner should establish that the circulation (online or in print) or viewership is high compared to other statistics and identify the intended audience. See generally 6 USCIS Policy Manual F.2(B)(1) (criterion 6), <https://www.uscis.gov/policymanual> (discussing circulation or viewership).

The Director determined the Petitioner submitted articles about herself but provided insufficient evidence to establish that the publications are in professional or major trade publications or other major media. On appeal, she asserts that the publications in which she was featured are major media sources for athletes, and provides a printout from the website alltop.com, which lists the "most popular stories," in sports news. She also submits several pages of information with the title of the articles, the URL where the article can be located, the name of publication, and date the article was posted. Many of the URLs provided are for youtube.com clips of her bouts, and she includes the URL, name of the fight, who posted the video, how many subscribers the poster has, the date the video was premiered, and the number of views. She asserts that because youtube.com has 2.5 billion users, it is a major media platform. She highlights that one of her youtube bouts received 514,000 views, and another bout received 95,000 views. Finally, she explains that her fights are property of [redacted] and can only be viewed through the [redacted] events channels, and that they are streamed on ESPN+. She asserts that ESPN, Forbes, Fox Sports, Yahoo Entertainment, and MMA Junkie are all major media for athletes.

We acknowledge that YouTube is a popular video sharing and social media platform with many users. However, the Petitioner's evidence is insufficient to find that YouTube is major media within the meaning of the regulation because the platform contains content with virtually no vetting or editing. Many of the articles submitted in publications like MMA Today, MMA Underground, MMA Weekly, bloodyelbow.com, wrestlingnews.com, wombatsports.com, mixedmartialarts.com, and MMA Junkie lack an author, or a date, and thus do not meet the plain language of the regulation. For example, the article [redacted] published on [redacted] 2014, in Women's MMA Today, an on-line magazine, has no author. The article [redacted] published online on bloodyelbow.com has an author but no date. Moreover, even if these articles had contained the

required author and date, the Petitioner did not provide comparative evidence to contextualize whether for example, bloodyelbow.com or wrestlingnews.com, are major media or professional or major trade publications in her field as required by the regulation. *Matter of Chawathe*, 25 I&N Dec. at 375-76. Finally, while we acknowledge her statement that the rights to televise her bouts are owned by [REDACTED] the Petitioner has not established how televised bouts could be considered “published material” within the meaning of the regulation. *Id.*

We acknowledge the Petitioner has received media attention from numerous on-line publications, however, due to the deficiencies noted above, she has not established she meets this criterion.

Evidence of the person’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)

The Petitioner initially submitted her “MMA judge badge” issued by the MMA Federation of Russia, and a certificate awarding her “MMA Coach of the Highest category.” However, as the Director noted in their RFE, she did not provide evidence showing that she participated individually or on a panel in an official capacity as a judge of the work of others in her field. With her RFE response, she provided a “Sport Judges’ Record Keeping Book,” which she described as an identification document issued to her by the Athletics-Sport Organization, Panel of the Board of Federation of Publication Organization Federation of MMA [REDACTED]. The Director determined that the book established she was a referee, but that refereeing is not judging because a referee is involved in ensuring fair play according to the rules of the sport. Furthermore, because no other evidence was submitted to establish the Petitioner judged or served as a judge, at what level, or other independent and objective documentation about the event or occasion where she served as judge, the work that was judged, the level of the participants, how she was selected as an official judge, or any other evidence to establish when the judging occurred, the Director determined she did not meet this criterion.

On appeal, the Petitioner asserts that her evidence is sufficient to establish she has served as a judge within the meaning of the regulation and that in the Russian language, a sports judge can be translated into English as either a sports referee or sports judge. However, she has not provided any objective evidence to support her assertion. *Id.* Furthermore, her evidence and assertions do not sufficiently address the Director’s concerns, and as such, she has not established this criterion. *Id.*

The Petitioner argues and submits evidence for one additional criterion on appeal relating to command of a high salary or other significantly high remuneration for services in relation to others in the field at 8 C.F.R. § 204.5(h)(3)(ix), however we will reserve this issue because the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3). *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).

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 do not need to 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, concluding 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, intended for the handful of individuals at the top of their respective fields. 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). As contemplated by Congress, the Petitioner must demonstrate the required sustained national or international acclaim, consistent with a “career of acclaimed work in the field.” 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 she is one of the small percentage who has risen to the very top of her field of endeavor. *See* section 203(b)(1)(A) and 8 C.F.R. § 204.5(h)(2).

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

ORDER: The appeal is dismissed.