



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

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

In Re: 30232223

Date: MAR. 12, 2024

Appeal of Texas Service Center Decision

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

The Petitioner, a Brazilian jiu-jitsu athlete and 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 the record did not establish that the Petitioner satisfied the initial evidence requirements for this classification by documenting his receipt of a major, internationally recognized award or, in the alternative, by meeting 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 pursuant to 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

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 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); *Rijal v. USCIS*, 772 F.Supp. 2d 1339 (W.D. Wash. 2011).

## II. ANALYSIS

The Petitioner is a Brazilian Jiu Jitsu athlete and instructor who states he intends to work as a Jiu Jitsu specialist or coach in the United States.

Because the Petitioner has not indicated or shown that he received a major, internationally recognized award, he must satisfy at least three of the ten alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Director determined that the Petitioner met two of the six criteria he claimed to have satisfied: judging the work of others in his field and display of his work at exhibitions and showcases. *See* 8 C.F.R. § 204.5(h)(3)(iv) and (vii). The Director concluded, however, that record did not support the Petitioner's claim that he satisfied the criteria at 8 C.F.R. § 204.5(h)(3)(i), (ii), (iii) and (v).

On appeal, the Petitioner asserts the Director overlooked certain evidence, misapplied U.S. Citizenship and Immigration Services (USCIS) policy guidance addressing extraordinary ability petitions involving athletic coaches, and failed to apply the preponderance of the evidence standard to the facts presented. Upon review, we conclude that the Petitioner has met at least one additional criterion.

The regulation at 8 C.F.R. § 204.5(h)(3)(i) requires documentation of an individual's receipt of lesser nationally or internationally recognized prizes or awards for excellence in their field of endeavor. The Petitioner submitted evidence of his receipt of gold, silver and bronze medals at competitions sponsored by the International Brazilian Jiu Jitsu Federation (IBJJF) in the three years preceding the filing of the petition in 2021.

The Director, in determining that the Petitioner did not satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(i), acknowledged the submitted evidence, but emphasized that "the medals awarded to the self-petitioner were medals given to [him] as a competitor, not as a coach." The Director therefore concluded that he did not establish his awards relate to his field of endeavor.

As the Petitioner observes on appeal, USCIS policy guidance directly addresses the issue of athletes transitioning to coaching:

Some of the most problematic cases are those in which the beneficiary's sustained national or international acclaim is based on his or her abilities as an athlete, but the beneficiary's intent is to come to the United States and be employed as an athletic coach or manager. Competitive athletics and coaching rely on different sets of skills and in general are not in the same area of expertise. However, many extraordinary athletes have gone on to be extraordinary coaches.

Therefore, in general, if a beneficiary has clearly achieved recent national or international acclaim as an athlete and has sustained that acclaim in the field of coaching or managing at a national level, officers can consider the totality of the evidence as establishing an overall pattern of sustained acclaim and extraordinary ability such that USCIS can conclude that coaching is within the beneficiary's area of expertise.

Where the beneficiary has had an extended period of time to establish his or her reputation as a coach beyond the years in which he or she had sustained national or international acclaim as an athlete, depending on the specific facts, officers may place heavier, or exclusive, weight on the evidence of the beneficiary's achievements as a coach or a manager.

*6 USCIS Policy Manual F.2(A)(2)*, <https://www.uscis.gov/policy-manual>. Under this policy guidance, evidence of acclaim as an athlete cannot suffice by itself to establish extraordinary ability as a coach, but USCIS officers can give proportionate weight to evidence of that acclaim when the record also shows that the acclaim has continued into a petitioner's coaching career.

Therefore, the ultimate question is whether the Petitioner has shown that his coaching activity has been at a level consistent with sustained national or international acclaim. Because acclaim is considered in the context of a final merits determination, evaluation of whether the Petitioner has achieved sustained acclaim as a coach does not require an underlying finding that he meets the underlying evidentiary criterion at 8 C.F.R. § 204.5(h)(3) based solely on his coaching activities.

Accordingly, we agree with the Petitioner's claim that the Director erroneously disregarded evidence of the awards and prizes he received as a competitive athlete in Brazilian Jiu Jitsu.<sup>1</sup> The Petitioner provided evidence that he was a silver medalist at the [redacted] Championship in 2019, a two-time medalist at the [redacted] championship, and a bronze medalist at the [redacted] championship. The record contains sufficient evidence to establish that these awards satisfy the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i).

The Petitioner has, therefore, overcome the only stated ground for denial of the petition; the failure to satisfy at least three evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). However, granting the

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<sup>1</sup> It appears that the Director may have made a similar error in evaluation of evidence submitted in support of the criterion at 8 C.F.R. § 204.5(h)(3)(iii), which requires evidence of published material about the individual in professional or major trade publications or other major media, relating to the person's work in the field. In a request for evidence (RFE), the Director emphasized that the submitted published materials "speak of the petitioner as a competitor in Jiu Jitsu and not as a Jiu Jitsu Coach." The Director ultimately determined that the Petitioner did not satisfy this criterion but did not state with specificity the reasons for reaching that conclusion.

third initial criterion does not suffice to establish eligibility for the classification the Petitioner seeks. The Director must undertake a final merits determination to analyze the Petitioner's accomplishments and weigh the totality of the evidence (including the evidence and arguments submitted on appeal) to determine if they establish extraordinary ability in the Petitioner's 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. Here, as the Petitioner is still competing as a Brazilian Jiu Jitsu athlete and started coaching more recently, the Director should determine whether the record demonstrates an overall pattern of sustained acclaim and extraordinary ability in the field.

### III. CONCLUSION

Because the Petitioner has overcome the only stated ground for denial, we remand this proceeding so 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.