



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

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

In Re: 21179723

Date: OCT. 4, 2022

Appeal of Vermont Service Center Decision

Form I-129, Petition for Nonimmigrant Worker (Extraordinary Ability – O)

The Petitioner, a martial arts school, seeks to classify the Beneficiary, a [REDACTED] coach, for extraordinary ability classification. To do so, the Petitioner seeks O-1 nonimmigrant status, available to individuals who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(O)(i), 8 U.S.C. § 1101(a)(15)(O)(i).

The Director of the Vermont Service Center initially denied the petition, concluding that the Petitioner did not demonstrate that the Beneficiary satisfied the initial evidentiary criteria applicable to individuals of extraordinary ability in athletics: either receipt of a major, internationally recognized award or at least three of eight possible forms of documentation. 8 C.F.R. § 214.2(o)(3)(iii)(A)-(B). Subsequently, the Director affirmed her decision on motion.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

**I. LAW**

As relevant here, section 101(a)(15)(O)(i) of the Act establishes O-1 classification for an individual who has extraordinary ability in the sciences, arts, education, business, or athletics that has been demonstrated by sustained national or international acclaim, whose achievements have been recognized in the field through extensive documentation, and who seeks to enter the United States to continue work in the area of extraordinary ability. Department of Homeland Security (DHS) regulations define "extraordinary ability in the field of science, education, business, or athletics" as "a level of expertise indicating that the person is one of the small percentage who have arisen to the very top of the field of endeavor." 8 C.F.R. § 214.2(o)(3)(ii).

Next, DHS regulations set forth alternative evidentiary criteria for establishing a beneficiary's sustained acclaim and the recognition of achievements. A petitioner may submit evidence either of "a major, internationally recognized award, such as a Nobel Prize," or of at least three of eight listed categories of documents. 8 C.F.R. § 214.2(o)(3)(iii)(A)-(B).

The submission of documents satisfying the initial evidentiary criteria does not, in and of itself, establish eligibility for O-1 classification. *See* 59 Fed. Reg. 41818, 41820 (Aug. 15, 1994) (“The evidence submitted by the petitioner is not the standard for the classification, but merely the mechanism to establish whether the standard has been met.”) Accordingly, where a petitioner provides qualifying evidence satisfying the initial evidentiary criteria, we will determine whether the totality of the record and the quality of the evidence shows sustained national or international acclaim such that the individual is among the small percentage at the very top of the field of endeavor. *See* section 101(a)(15)(o)(i) of the Act and 8 C.F.R. § 214.2(o)(3)(ii), (iii).<sup>1</sup>

## II. ANALYSIS

Because the Petitioner did not establish that the Beneficiary has received a major, internationally recognized award, it must demonstrate that the Beneficiary satisfies at least three of the alternate regulatory criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B)(1)-(8). The Director determined that the Petitioner established that the Beneficiary met only one criterion: judging at 8 C.F.R. § 214.2(o)(3)(B)(iii)(4). On appeal, the Petitioner argues that the Beneficiary fulfills four additional criteria. After reviewing all of the submitted evidence, the record does not reflect that the Beneficiary meets the requirements of at least three criteria.<sup>2</sup>

*Documentation of the alien'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. § 214.2(o)(3)(iii)(B)(2).

The Petitioner claims the Beneficiary's eligibility based on his membership with the [REDACTED]  
[REDACTED] Specifically, the Petitioner contends:

The existence of other requirements is not an impediment to satisfy this criterion as long as the essential requirement is outstanding achievement. In the case at issue, the outstanding achievements is the essential factor to be selected and receive an invitation. Other requirements such as tests or competitions are not the essential requirement for the selection of candidates. Furthermore, these tests and competitions are for the purpose of electing a batch leader within the organization.

The record contains an article from the [REDACTED] describing the history of [REDACTED] and stating:

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<sup>1</sup> *See also Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010), in which we held that, “truth is to be determined not by the quantity of evidence alone but by its quality.”

<sup>2</sup> Although the Petitioner submits additional documentation for the first time on appeal, we will not consider new eligibility claims or evidence. *See Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988) (providing that if “the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it for the record before the denial, we will not consider evidence submitted on appeal for any purpose” and that “we will adjudicate the appeal based on the record of proceedings before the . . . director”); *see also Matter of Obaighena*, 19 I&N Dec. 533 (BIA 1988). Here, the Petitioner had the opportunity to submit the evidence on three separate occasions - at the initial filing of the petition, in response to the Director's request for evidence, and on motion.

The [ ] . . . is a one-of-a kind organization that had a yearly member recruitment sponsored by seniors. An esprit de corp among kindred warriors who have a common passion for [ ] is created when one surpasses the training years and graduates to become part of the elite group. Batchmates with different characters from different sectors of society are brought together and are connected for life as brothers and sisters.

In addition, the record reflects a letter from [ ] chief executive officer for the [ ] who claimed:

The [ ] is a selected group of [ ] in the Philippines, and in order to be a member of this brotherhood, it is required to be an [ ] and considered role model by your peer [ ] It starts with an initiation phase consisting of tests and obstacles to endure physical and mental demands, challenges that if they are passed by the candidate he may become a member of the brotherhood.

The [ ] is a special program of training representing only the martial artist's possession [of] extraordinary abilities, and who has hold outstanding performance. In order to be part of the program the candidate must be a member of the [ ] he also must be recognized among his peers to possess extraordinary abilities and skills, be an outstanding leader, and show leadership skills as well.

The process starts with the call or invitation from the Senior [ ] badge leader (generation), who is in charge to choose among other [ ] Practitioners, the ones that show outstanding and extraordinary abilities in the realm of [ ] The process involves physical tests, competition, and a thorough process of interviews with the candidates. The process itself is difficult, and just the best ones among their peers get selected. There are only about 100 [ ] called to this process and only about 8-10 of them are able to finish the whole process.

From the group selected, starting the process of three years of preparation, only a small percentage is able to finish because the program is extremely hard, and it requires strong commitment, and the participant to be mentally and physically strong.

Further, the record contains other letters commenting on [ ] such as "to become part of the [ ] you have to be selected by other member, pass rigorous tests and be part of a three-year process" and "[i]f the candidate passes and completes the training, then he can be part of this elite group of martial artists" [ ] "[t]he process involves physical exercise, competition and a thorough process of interviews with the candidates" and "[f]rom those who are chosen, they are tasked to undertake three year training program wherein the mind and body are developed to imbibe the spirit of [ ] as a Martial Artist and Sport" [ ]; and "[o]nly a handful of individuals of the [ ] Community are called to start the selection process to belong and become a member of this group" and "[t]he total process takes about three years in total and only a few people are able to finish such difficult process" [ ]

In order to meet this criterion, a petitioner must establish that membership in the association requires

outstanding achievements in the field for which classification is sought, as judged by recognized national or international experts.<sup>3</sup> Here, the evidence does not show that membership with [ ] requires outstanding achievements, as judged by recognized national or international experts. Instead, as described by [ ] the initiation phase consists of tests and obstacles, and “[t]he process involves physical tests, competition, and a thorough process of interviews with the candidates.” The Petitioner did not demonstrate how completing physical tests, competing, and interviewing are tantamount to outstanding achievements, as required by this regulatory criterion. Furthermore, these requirements are only a preliminary step to achieving [ ] membership, which “[f]rom this selected group of outstanding martial artists only 3% finishes the 3-year intensive training” [ ] [ ] Therefore [ ] membership requires individuals to successfully complete three years of training rather than being judged for outstanding achievements by recognized national or international experts. For these reasons, the Petitioner did not establish that the Beneficiary’s membership with [ ] satisfies this criterion.

The Petitioner also claims the Beneficiary’s eligibility for this criterion based on being a “Certified International Master Instructor.” Specifically, the Petitioner asserts that “[t]his is by invitation only to a selected group of coaches. To become certified, among other requirements the candidates must have outstanding performance and achievements as an international coach, be member of a national association, [and] be at least [ ] black belt.” However, the Petitioner does not indicate which evidence, if any, supports his assertions. The record does contain a letter from [ ] USA Olympic Team Head Coach, who stated:

In order to be an International [ ] Master and Instructor you need to study and pass a very difficult course provided by the [ ] in conjunction with the [ ] and exhibit great skills and innovative methods of coaching and instructing. In fact, you have to be national or internationally acclaimed in order to be selected to be able to be certified as an International Master Instructor. You have to possess extraordinary abilities among your peers to become one. The national Association chooses only a few master/coaches to attend the certification, from which only a few manage to succeed. The level of knowledge and skills required is very high, and [the Beneficiary] was the only one from 50 sent by the Philippines able to pass the exam and get certified.

The regulation at 8 C.F.R. § 214.2(o)(3)(iii)(B)(2) requires “[d]ocumentation of the alien’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.” Here, the Petitioner did not show how being a “Certified International Master Instructor” equates to being a member of an association that requires outstanding achievements. Again, as discussed above, the Beneficiary became a certified instructor only after passing an exam. The Beneficiary was not granted “membership in [an] association[.]” based on outstanding achievements; certification is based on passing an exam rather than recognized national or international experts determining whether a candidate possessed outstanding achievements. Accordingly, the Petitioner did not establish that the Beneficiary’s certification meets this criterion.

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<sup>3</sup> See also 2 USCIS Policy Manual, M.4(C)(2), <https://www.uscis.gov/policymanual>.

*Published material in professional or major trade publications or other major media about the alien, relating to the alien's work in the field for which classification is sought, which shall include the title, date, and author of such published material, and any necessary translation.* 8 C.F.R. § 214.2(o)(3)(iii)(B)(3).

In order to fulfill this criterion, the Petitioner must demonstrate published material about the Beneficiary in professional or major trade publications or other major media, as well as the title, date, and author of the material.<sup>4</sup> Initially, the Petitioner submitted articles from the *Baguio Midland Courier* and the *Sun Star*. However, none of the articles reflect published material about the Beneficiary relating to his work. Instead, the articles briefly list the Beneficiary as a participant or coach in various [redacted] events. Articles that are not about the beneficiary do not fulfill this regulatory criterion. *Cf., Negro-Plumpe v. Okin*, 2:07-CV-820-ECR-RJJ at \*1, \*7 (D. Nev. Sept. 8, 2008) (upholding a finding that articles regarding a show are not about the actor).<sup>5</sup> Furthermore, the Petitioner did not provide evidence showing that *Baguio Midland Courier* or the *Sun Star* are a professional or major trade publication or other major medium.<sup>6</sup>

In response to the Director's request for evidence (RFE), the Petitioner contended that the previously submitted articles "highlighted the fact that his athletes won medals at prestigious international competitions under his coaching" and "the submitted articles which highlight many of [the Beneficiary's] athletes' successes in international competitions are indicative of [the Beneficiary's] world class coaching abilities." Moreover, the Petitioner argued that "one of the articles that was submitted [redacted] Midland Courier, [redacted] 2018) specifically mention that, [redacted] coach . . . is the only Filipino to act as an international referee for [redacted] at the ongoing [redacted] Games in Indonesia." Again, this regulatory requires published material "about" the beneficiary. Press or media coverage of the Beneficiary's students does not satisfy the criterion without published material about the Beneficiary. Moreover, articles that simply list or briefly mention the Beneficiary as the coach or referee do not reflect published material "about" him. In addition, the Petitioner submitted an article posted on [redacted], which included an "About [redacted] Midland Courier" that listed the names of the editorial staff and indicated that the publication is a member of the Philippine Press Institute and the Press Foundation of Asia. However, the Petitioner did not explain or show how this information demonstrate the major standing of the publication. Without evidence, such as readership or circulation statistics, the Petitioner did not establish that the [redacted] *Midland Courier* represent a major medium. We note that the RFE response did not include evidence of the major status of the *Sun Star*.

On motion, as indicated in the Director's decision, the Petitioner did not contest the Beneficiary's eligibility for this criterion. However, the Petitioner presented some of the previously submitted articles for the [redacted] *Midland Courier* and the *Sun Star*, as well as a few additional articles that

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<sup>4</sup> See also 2 USCIS Policy Manual, *supra*, at M.4(C)(2).

<sup>5</sup> See also 2 USCIS Policy Manual, *supra*, at M.4(C)(2) (providing that published material that includes only a brief citation or passing reference to the beneficiary's work is not "about" the beneficiary, relating to the beneficiary's work in the field, as required under this criterion).

<sup>6</sup> See 2 USCIS Policy Manual, *supra*, at M.4(C)(2) (reflecting that in evaluating whether a submitted publication is a professional publication, major trade publication, or major media, relevant factors include the intended audience (for professional and major trade publications) and the relative circulation, readership, or viewership (for major trade publications and other major media)).

simply credit or list the Beneficiary as a coach without any discussion of him. In addition, the Petitioner did not provide evidence demonstrating the major standing of the publications.

For the reasons discussed above, the Petitioner did not establish that the Beneficiary fulfills this criterion.

*Evidence of the alien's original scientific, scholarly, or business-related contributions of major significance in the field. 8 C.F.R. § 214.2(o)(3)(iii)(B)(5).*

The Petitioner claims that the “Beneficiary developed original coaching and training techniques for [redacted] athletes, which has not expanded to other disciplines,” and “[e]xperts’ opinions were submitted describing the originality and significance [sic] impact, not only in the field of [redacted] but also in other sports.” In order to meet this criterion, the Petitioner must demonstrate that the Beneficiary has not only made original scientific, scholarly, or business-related contributions but those contributions have been of major significance.<sup>7</sup>

The record reflects that the Petitioner submitted the Beneficiary’s thesis entitled, [redacted] [redacted] and two letters from [redacted] professor at the University of the Philippines [redacted] who credited the Beneficiary for helping him in his own research. Specifically, [redacted] stated:

[The Beneficiary’s] work has been of great help, but crucial on my researches, specifically when we worked on [redacted] He has developed his own training and coaching technique in the sport of [redacted] of [redacted] which has been of great success with his athletes and himself. He is well known as respected in the [redacted] community as a coach and as an athlete, and as a fellow professor I requested his assistance on this issue. The work resulting from that assistance and co-research work was the foundational stone for my work . . . . Thanks to [the Beneficiary’s] work and assistance, I was able to produce two more researches related to [redacted]

The letter, however, does not show how the Beneficiary’s thesis has impacted the overall field rather than limited to [redacted] own research. *Cf., Visinscaia v. Beers*, 4 F. Supp. 3d 126, 134-35 (D.D.C. 2013) (upholding a finding that a ballroom dancer had not met this criterion because she did not corroborate her impact in the field as a whole). [redacted] for example, did not elaborate and explain how the Beneficiary’s work has significantly influenced the field in a major manner outside of his own published works. Here, the Petitioner did establish that the Beneficiary’s thesis provoked widespread commentary on its importance from others working in the field or that it has been highly cited relative to other works in the field.<sup>8</sup>

The record also contains a letter from [redacted] owner of [redacted] who claimed:

<sup>7</sup> See also 2 USCIS Policy Manual, *supra*, at M.4(C)(2).

<sup>8</sup> See 2 USCIS Policy Manual, *supra*, at M.4(C)(2).

[T]hanks to [the Beneficiary's] unique techniques of teaching and coaching, now taught through the [redacted] had been of great help for the enhancement in the performance of [redacted] Athletes, by using also his [redacted] This technique that he has used and improved has been developed to be used in the training of other sports in the Philippines and China, helping in the overall performance of elite athletes at large.

In this case, the letter makes broad claims and assertions without providing specific information that details how the Beneficiary's thesis "had been of great help for the enhancement in the performance of [redacted] Athletes" and how it "has been developed to be used in the training of others sports in the Philippines and China." Detailed letters from experts in the field explaining the nature and significance of the beneficiary's contributions may also provide valuable context for evaluating the claimed original contributions of major significance, particularly when the record includes documentation corroborating the claimed significance.<sup>9</sup> Submitted letters should specifically describe the beneficiary's contribution and its significance to the field and should also set forth the basis of the writer's knowledge and expertise.<sup>10</sup> Here, the letter's lack of specific information articulating how the Beneficiary's thesis has resulted in an original scholarly contribution of major significance in the field does not establish eligibility for this criterion.

Accordingly, the Petitioner did not demonstrate that the Beneficiary satisfies this criterion.

### III. CONCLUSION

The Petitioner did not demonstrate that the Beneficiary satisfied the criteria relating to memberships, published material, and original contributions. Although the Petitioner also claims the Beneficiary's eligibility regarding awards at 8 C.F.R. § 214.2(o)(3)(iii)(B)(1), we need not address this criterion because he cannot fulfill the initial evidentiary requirement of at least three criteria under 8 C.F.R. § 214.2(o)(3)(iii)(B). We also need not provide a totality determination to establish whether the Beneficiary has sustained national or international acclaim and is one of the small percentage who has arisen to the very top of the field. *See* section 101(a)(15)(O)(i) of the Act and 8 C.F.R. § 214.2(o)(3)(ii) and (iii).<sup>11</sup> Accordingly, we reserve these issues.<sup>12</sup> Consequently, the Petitioner has not established the Beneficiary's eligibility for the O-1 visa classification 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.

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<sup>9</sup> *See* 2 USCIS Policy Manual, *supra*, at M.4(C)(2)

<sup>10</sup> *Id.*

<sup>11</sup> *See also* 2 USCIS Policy Manual, *supra*, at M.4(B).

<sup>12</sup> *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).