U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41754472

Date: APR. 22, 2026

Appeal of Service Center Operations Decision

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

The Petitioner, a retired professional [redacted] player and a [redacted] seeks classification under the employment-based, first-preference (EB-1) immigrant visa category as an alien with "extraordinary ability." *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This EB-1 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. Section 203(b)(1)(A)(i) of the Act.

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish that the Petitioner had satisfied at least three of ten initial evidentiary criteria, as required. 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 dismiss the appeal.

I. LAW

To qualify for this immigrant visa category, a petitioner must demonstrate that they:

- Have "extraordinary ability in the sciences, arts, education, business, or athletics;"
- Seek to continue work in their field of expertise in the United States; and
- Would substantially benefit the United States as an immigrant.

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

The term "extraordinary ability" means expertise commensurate with "one that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). Unless a petitioner can demonstrate international recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award), they must provide sufficient

qualifying documentation that meets at least three of the ten lesser evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)–(x). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable evidence if they are able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)–(x) do not readily apply to the individual's occupation.

If a petitioner meets these initial evidence requirements, U.S. Citizenship and Immigration Services (USCIS) must 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 Amin v. Mayorkas*, 24 F.4th 383, 391 (5th Cir. 2022) (finding USCIS' two-step extraordinary ability analysis "consistent with the governing statute and regulation"); *see generally* 6 *USCIS Policy Manual* F.2(B), www.uscis.gov/policy-manual.

II. ANALYSIS

The record indicates that the Petitioner is a retired professional [redacted] player who ranked number one on the [redacted] for 13 years, winning 170 finals out of 191 matches. Since [redacted] the Petitioner has worked as a '[redacted]' at [redacted] incorporated in 2023, operates padel tennis facilities in [redacted] and [redacted] and organizes [redacted] tournaments in the United States. The Petitioner's duties as a [redacted] at [redacted] include coaching clients in padel techniques, promoting the popularity of [redacted] creating technical certification courses, training other padel coaches, and managing the [redacted]. The Petitioner claimed that his work "has allowed the company to expand the sport significantly in South Florida and 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 alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). SCOPS concluded that the Petitioner met only one of the initial criteria claimed at 8 C.F.R. § 204.5(h)(3)(ix) (commanding a high salary). On appeal, the Petitioner asserts the SCOPS misapplied USCIS policy guidance addressing extraordinary ability petitions and overlooked certain evidence, and that he meets all six criteria previously claimed, in addition to a new criterion at 8 C.F.R. § 204.5(h)(3)(ii) (membership in associations).

A. The Petitioner's Field of Expertise

First, we will address the Petitioner's claim that SCOPS did not correctly interpret USCIS policy guidance addressing the issue of athletes transitioning to coaching or other similar employment and erred by not providing "proper weight and consideration to the evidence presented of Petitioner's extraordinary ability as a [redacted] player."

The relevant language from the policy manual states the following:

> To qualify as a person with extraordinary ability, the beneficiary must intend to continue to work in the area of his or her expertise.

> The officer may encounter instances where it is difficult to determine whether the person's intended employment falls sufficiently within the bounds of his or her area of extraordinary ability. 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.
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> 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.
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> 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, the Petitioner's evidence of acclaim as a professional [redacted] player cannot suffice by itself to establish extraordinary ability as a coach and a promoter or manager of a [redacted] sport company, but USCIS officers can give proportionate weight to evidence of that acclaim when the record also shows that the athletic acclaim has continued into the transitioned career. As such, we must ultimately decide whether the Petitioner has shown that his coaching and promotional activities, in addition to his athletic career, has been at a level consistent with sustained national or international acclaim. Such evaluation must occur in the context of a final merits determination, as officers must review the totality of the evidence establishing an overall pattern of sustained acclaim and extraordinary ability.

Therefore, we withdraw SCOPS' statements dismissing evidence for the sole reason that it pertains only to the Petitioner's work as a professional player and separating the evidence of the Petitioner's extraordinary ability into "as either a player or a coach" under the initial evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x), prior to a final merits determination.

B. O-1 Status

Secondly, we note that the record reflects that the Petitioner received O-1 status, a classification reserved for nonimmigrants of extraordinary ability. Although USCIS has approved O-1 nonimmigrant visa petitions filed on behalf of the Petitioner, the prior approval does not preclude USCIS from denying an immigrant visa petition which is adjudicated based on a different standard –

statute, regulations, and case law. Many Form I-140 immigrant petitions are denied after USCIS approves prior nonimmigrant petitions. *See, e.g., Q Data Consulting, Inc. v. INS*, 293 F. Supp. 2d 25 (D.D.C. 2003); *IKEA US v. US Dept. of Justice*, 48 F. Supp. 2d 22 (D.D.C. 1999); *Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F. 2d 41 (2d. Cir. 1990). Furthermore, our authority over the USCIS service centers, the office adjudicating the nonimmigrant visa petition, is comparable to the relationship between a court of appeals and a district court. Even if a service center director has approved a nonimmigrant petition on behalf of an individual, we are not bound to follow that finding in the adjudication of another immigration petition. *See La. Philharmonic Orchestra v. INS*, No. 98-2855, 2000 WL 282785, at *2 (E.D. La. 2000).[1]

On appeal, the Petitioner compares the statutory language between the O-1 classification and EB-1 classification and the differences in the USCIS Policy Manual instructions for adjudicating cases involving "a beneficiary who is transitioning to a new occupation (for instance, an acclaimed athlete coming to be a coach)." *See generally* 2 *USCIS Policy Manual*, *supra*, at M.4(F)(1) and 6 *USCIS Policy Manual*, *supra,* at F.2(A)(2). The Petitioner asserts that USCIS policy manual provides contradictory interpretations for "the identical statutory language used in both statutory provisions."

However, in both instances, the policy manual requires officers to consider the totality of evidence to evaluate sustained acclaim of being an athlete as well as transitioning to another occupation, such as a coach or manager. Therefore, the Petitioner's contention that there is a significant discrepancy between the statutory interpretation by the policy manual is not persuasive and we reject the Petitioner's suggestion that we must defer to the prior O-1 decision or apply the policy guidance interpreting the nonimmigrant O-1 regulations to the present immigrant visa case.

B. Evidentiary Criteria

The Petitioner claims to have satisfied the following seven initial criteria at 8 C.F.R. § 204.5(h)(3)(i), (ii), (iii), (v), (vii), (viii) and (ix):

- Receipt of lesser recognized awards or prizes for excellence in the field;
- Membership in associations in the field requiring outstanding achievements of their members;[2]
- Published materials about the person;
- Original contributions of major significance in the field;
- Display of work at artistic showcases or exhibitions;
- Performing leading or critical roles for organizations that have a distinguished reputation; and
- Commanding a high salary in relation to others in the field.

Upon review of the record, we conclude that the record demonstrates that the Petitioner has met only two criteria at 8 C.F.R. § 204.5(h)(3)(i) and (iii). Therefore, the Petitioner has not satisfied at least three initial evidentiary criteria and is not eligible for the extraordinary ability visa classification sought, as discussed below.

[1] *See also generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(3).

[2] The Petitioner did not include this criterion at the time of initial filing but raised it on appeal.

1. Lesser Recognized Prizes or Award for Excellence in the Field

SCOPS determined that the Petitioner did not satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(i), which requires evidence that he received prizes or awards that are nationally or internationally recognized for excellence in the field of endeavor. SCOPS acknowledged the submitted evidence but stated that "the awards appear to have been received for the petitioner's work as a professional player" and concluded that the Petitioner did not establish his awards relate to his field of endeavor. Here, we withdraw this statement from SCOPS and find that SCOPS erroneously disregarded evidence of the awards and prizes he received as a competitive padel player. As discussed above, such evidence may be relevant in evaluating the Petitioner's sustained acclaim in a final merits determination in cases of athletes transitioning to coaching or other similar employment. *6 USCIS Policy Manual*, *supra*, at F.2(A)(2).

SCOPS also concluded that the Petitioner did not sufficiently confirm that these awards enjoy national or international recognition for excellence in the field. However, the Petitioner submitted a letter from the [redacted] certifying his wins in the [redacted], in addition to evidence of receiving a national sports award from the King and Queen of Spain in 1999 and an award from the [redacted] Awards in 2014. 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); *see generally* 6 *USCIS Policy Manual, supra*, F.2(B)(1). Therefore, we conclude that the Petitioner has met this criterion.

2. Published Materials

SCOPS 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. SCOPS concluded that the Petitioner did not meet this criterion as the published articles are about the Petitioner as a professional athlete, not as his position as a [redacted] coach or executive of a [redacted]

On appeal, the Petitioner contends that the news articles in the record document the career and success of the Petitioner as a professional [redacted] player and they are major sports media publications in Spain and Argentina. Upon review, we withdraw SCOPS' decision. The record contains sufficient evidence to establish that these published materials satisfy the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(iii). Therefore, we conclude that the Petitioner has met this criterion.

3. Original Contributions of Major Significance

This criterion requires "[e]vidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field." 8 C.F.R. § 204.5(h)(3)(v). For this criterion, the Petitioner must establish that not only has he made original contributions but that they have been of major significance in the field. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(1), Criterion 5. For example, a petitioner may show that his contributions have been widely implemented throughout the field, or have otherwise risen to a level of major significance in the field. *See Amin v. Mayorkas*, 24 F.4th 383, 394 (5th Cir. 2022) (for a petitioner's contributions to be "of major

significance," evidence must demonstrate that their work has been widely adopted or replicated by industry actors unaffiliated with them).

On appeal, the Petitioner claims that the record contains "ample evidence, including articles and detailed attestations from industry professionals and experts, of Petitioner's contributions to promoting and developing the sport of [redacted] in the United States and internationally" and that the Petitioner is "one of, if not the single most important person responsible for the growth and development of [redacted] in the United States."

However, the recommendation letters in the record do not provide details regarding how the Petitioner's contributions in promoting and developing the sport of [redacted] are "original" and how they are of "major significance" in the field. The letters broadly claim that the Petitioner was "the number one [redacted] player in the world," "he has achieved great sporting results," or he will make an impact on the American [redacted] community through his "expertise, sportsmanship, and commitment." But these letters primarily contain attestations of the Petitioner's status in the sport without providing specific examples of originality in his contributions or their major significance. Letters that lack specifics and use hyperbolic language do not add value and are not considered to be probative evidence that forms the basis for meeting this criterion. Moreover, USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990). Although the Petitioner has earned the admiration of his references, the evidence submitted does not demonstrate that his impact on the sport is commensurate with an original athletic contribution of major significance in the field.

Accordingly, the Petitioner has not satisfied the requirements of this criterion.

4. Display of Artistic Exhibitions

The regulation at 8 C.F.R. § 204.5(h)(3)(vii) requires "[e]vidence of the display of the alien's work in the field at artistic exhibitions or showcases." In addition to demonstrating that the displayed work was the alien's work product, the venues (virtual or otherwise) where the work was displayed must be artistic exhibitions or showcases.

The Petitioner has claimed that he fulfilled this criterion by "showcas[ing] his extraordinary ability by competing and excelling in high-level international tournaments" but SCOPS concluded that the Petitioner did not meet this criterion. On appeal, the Petitioner claims that his evidence should qualify as comparable evidence per 8 C.F.R. § 204.5(h)(4) (allowing for comparable evidence if the listed criteria do not readily apply to a petitioner's occupation). *See generally 6 USCIS Policy Manual*, *supra*, F.2 (Appendices).

Although Merriam-Webster's online dictionary definition of "exhibition" includes public showings other than those that are artistic in nature, the plain language of the criterion includes the modifier "artistic" and explicitly requires that the exhibitions or showcases be artistic in nature. 8 C.F.R. § 204.5(h)(3)(vii); *see generally* 6 *USCIS Policy Manual* F.2(B)(1). As such, various forms of artistic display, including visual art, performing arts, music, graphic art, and other examples of the fine arts, may satisfy this criterion's requirements and comparable evidence may be accepted as we evaluate the artistic nature of the display and venue. However, the Petitioner has not submitted evidence that a public display of his athletic skills was in artistic context or venues.

Therefore, he has not demonstrated that the evidence of his work as a professional [redacted] player is comparable to an artistic exhibition or showcase and has not satisfied this criterion.

5. Leading or Critical Role

To meet this requirement, a petitioner must provide "[e]vidence that the alien 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). A critical role means an alien contributed in a significantly important way to the activities of the organization, establishment, division, or department. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.(2)(B)(1), Criterion 8. Next, the Petitioner must establish that the organization, establishment, division, or department has a distinguished reputation. The word "distinguished" ordinarily means "marked by eminence, distinction, or excellence" or "befitting an eminent person." *Distinguished*, Merriam-Webster Online Dictionary, www.merriam-webster.com.

The Petitioner has claimed that he has performed leading or critical role at [redacted] as a [redacted] since September 2023. SCOPS determined that the record does not establish that [redacted] has a distinguished reputation or that the Petitioner has performed leading or critical role in the organization as he had contractual obligations and financial compensation to use the companies' products. On appeal, the Petitioner claims that SCOPS disregarded several articles about [redacted] the owner, investor, and founder of [redacted], which establishes the company's distinguished reputation of having "a top-of-the line membership club offering courts, coaching, and community" in three locations in [redacted] and another in [redacted]

However, the evidence regarding the organization's distinguished reputation consists of a letter from the company's own "Head of Legal Compliance and Operations," its website printouts, and two articles announcing the launch of this [redacted] club community in 2023. Such evidence does not provide sufficient information regarding the distinguished reputation of [redacted] Relevant considerations in determining whether an organization is "distinguished" include not only its relative size and longevity but also other factors, such as the scale of its customer base or relevant media coverage of it. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.(2)(B)(1), Criterion 8. The company's own website printouts or a letter from its own representative do not show that this company has a distinguished reputation compared to those of rival businesses in the field. In addition, the Petitioner has not sufficiently demonstrated that the company has longevity, an established large customer base, or significant media coverage to demonstrate its distinction from other similarly situated sports club communities. It appears that the company is attracting famous [redacted] players and focusing on branding and marketing, but the record lacks corroborating evidence that it has already gained a distinguished reputation.

The Petitioner has not satisfied the requirements of this criterion.

6. High Salary or Significantly High Remuneration

[3] In addition, the Petitioner initially claimed that he led critical or leading roles at other companies, including [redacted]. However, the Petitioner has not raised these issues on appeal and thereby waives his claims. *See 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))

This criterion requires "[e]vidence that the alien 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). Evidence regarding whether the person's compensation is high relative to that of others working in the field may take many forms. Examples may include, but are not limited to, geographical or position-appropriate compensation surveys and organizational justifications to pay above the compensation data. *See generally* 6 *USCIS Policy Manual*, supra, at F.2(B)(1), Criterion 9.

SCOPS concluded that the Petitioner meets this criterion but did not provide any analysis for this conclusion. In response to SCOPS' request for evidence, the Petitioner indicated that his role as a [redacted] is "a multifaceted role that focuses both on executive duties such as ensuring the day to day of a [redacted] club is working as well as coaching and holding clinics for its members and athletes" and referred to the evidence included with the initial filing. The record contains the Petitioner's U.S. tax returns for 2024, foreign tax returns from 2019 to 2021, wage data for professional coaches from salary.com, [redacted] article about average salaries for coaches, Foreign Labor Certification Data Center (FLCDC) wage information about average salaries for coaches in [redacted], [redacted] article discussing how much a [redacted] player earns, and U.S. Bureau of Labor Statistics report for earnings of chief executive officers (CEOs).

These sources, however, are not sufficient to demonstrate that the Petitioner has earned a "high salary" or "significantly high remuneration" as a [redacted] in comparison with those performing similar work as his position combines being a coach, a professional [redacted] player, and a chief executive officer. *See Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Commr. 1994) (considering professional golfer's earnings versus other PGA Tour golfers); *see also Grimson v. INS*, 934 F. Supp. 965, 968 (N.D. Ill. 1996) (considering NHL enforcer's salary versus other NHL enforcers); *Muni v. INS*, 891 F. Supp. 440, 444-45 (N. D. Ill. 1995) (comparing salary of NHL defensive player to salary of other NHL defensemen). In addition, the Petitioner submitted his unsigned U.S. Individual Income Tax Returns for 2024[4] reflecting total income of $400,000 but did not include a copy of his Form W-2, Wage and Tax Statements, documenting his wages. As such, the evidence submitted does not reliably establish the Petitioner's actual salary.

Accordingly, we withdraw SCOPS' determination and conclude that the Petitioner has not met this criterion.

7. Membership in Associations

To meet this evidentiary requirement, a petitioner must submit "[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." 8 C.F.R. § 204.5(h)(3)(ii). Associations may have multiple levels of membership, and the level of membership afforded to the alien must show that in order to obtain that level of membership, the alien was judged by recognized national or international experts as having attained outstanding achievements in the field for which classification is sought. *See generally* 6 *USCIS Policy Manual, supra*, at F.2(B)(1), Criterion 2.

[4] Since the record indicates that the Petitioner began his work as a [redacted] at [redacted] in 2023, we find his 2019-2021 tax returns from abroad not pertinent to the analysis here.

On appeal, the Petitioner asserts that he meets a new criterion that was not claimed with the initial filing. The Petitioner asks that we consider his selection to the [redacted] team as evidence of his membership in an association and submits an article from the [redacted] website in which the Petitioner was interviewed about his selection to this team. The Petitioner claims that his selection based on this interview article shows that "only the top [redacted] athletes are selected to the national team to represent a given country" and the guidelines from the [redacted] regarding selection show his outstanding achievement to meet this criterion.

We acknowledge that membership on a national team may, depending on the evidence presented in an individual case, be sufficient to satisfy this criterion. While an athletic team is not, strictly speaking, an "association," it is nonetheless equally true that an athlete can earn a place on a major national or an Olympic team only through rigorous competition which separates the very best from the great majority of participants in a given sport. Therefore, an athlete's membership on an Olympic team or a major national team may serve to meet this criterion as such teams are limited in the number of members and have a rigorous selection process. *See id.* (stating that election to a national all-star or Olympic team might serve as comparable evidence for evidence of membership in 8 C.F.R. § 204.5(h)(3)(h)). It is the Petitioner's burden, however, to demonstrate that he meets every element of a given criterion. We will not assume that every "national team" is sufficiently exclusive and requires outstanding achievements of its members as judged by recognized national or international experts in their fields or disciplines.

Upon review of the evidence submitted, we conclude that the Petitioner has not established his eligibility under this criterion. The Petitioner submits a transcribed interview from [redacted] regarding the [redacted] Championship representing the [redacted] dated [redacted] 2018. While this document provides support that the Petitioner is competing for the [redacted] and his pride in such participation, the article does not outline the selection criteria for the Petitioner's claimed membership on the Spanish national team. The Petitioner also submits the [redacted] regulations on eligibility for selection, but the guidelines do not mention outstanding achievements as part of the selection criteria but discuss the individual's permanent nationality, birth, and authorization to register and to play for Spain. Accordingly, the Petitioner has not submitted relevant and corroborating evidence that his membership in the [redacted] team demonstrates outstanding achievements or judged by recognized national or international experts in the field.

Therefore, we conclude that the Petitioner has not met this criterion.

B. Final Mertis Determination

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 lesser 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, concluding that it does not support a conclusion that the Petitioner has established the acclaim and recognition required for the classification sought.

We note especially that the Petitioner stated that he intends to use his athletic background to promote and coach in the field of [redacted] in the United States. The record, however, does not include much

evidence to demonstrate the Petitioner's ability or experience as a coach or as a manager. We cannot presume that an individual's success as an athlete in a particular field will translate to an extraordinary ability to instruct others to perform in that field or promote that particular sport as a company manager. While the evidence of record supports a determination that the Petitioner is a talented and successful athlete, there is insufficient objective evidence to establish whether or how his career as an athlete demonstrates acclaim and recognition in the field as a coach. *Matter of Chawathe*, 25 I&N Dec. at 376.

Congress set a very high benchmark for aliens of extraordinary ability by requiring the petitioner demonstrate "sustained national or international acclaim" and present "extensive documentation" to show his or her achievements have been recognized in the field. Section 203(b)(1)(A)(i) of the Act. Because the Petitioner has not satisfied the threshold "initial evidence" requirements at 8 C.F.R. § 204.5(h)(3), we cannot conclude that he is an alien of extraordinary ability and need not further analyze the merits under the statute. *See Kazarian*, 596 F.3d at 1119-20; *see also Nagaiah v. Allen*, 784 F. Supp. 3d 798, 814 (E.D. Pa. 2025) (finding the regulation "establishes a necessary, not sufficient, evidentiary requirement for a petitioner who seeks an extraordinary ability visa."). Therefore, we decline to reach and hereby reserve any final merits determination in this matter. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

III. CONCLUSION

For the reasons discussed above, the Petitioner has not demonstrated eligibility as an individual of extraordinary ability. In visa petition proceedings, it is a petitioner's burden to establish eligibility for the immigration benefit sought. The Petitioner has not met that burden here.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.