U.S. Citizenship and Immigration Services

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

In Re: 42072178

Date: JULY 14, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

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

The Petitioner, a Brazilian jiu-jitsu instructor, 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 aliens who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation. *Id.*

USCIS denied the petition, concluding that the Petitioner did not establish either that he received a major, internationally recognized award, or that the record satisfied at least three of the 10 initial evidentiary criteria. 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

Section 203(b)(1) of the Act makes visas available to immigrants with extraordinary ability if:

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's 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 can demonstrate sustained acclaim and the recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then they must provide sufficient qualifying documentation that meets at least three of the 10 categories listed at 8 C.F.R. § 204.5(h)(3)(i)-(x) (including items such as awards, published material in certain media, and scholarly articles). If a criterion at 8 C.F.R. §§ 204.5(h)(3)(i)-(x) does not readily apply to a petitioner, they may submit comparable evidence to establish eligibility. 8 C.F.R. § 204.5(h)(4).

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).

## II. ANALYSIS

The Petitioner described the endeavor as a plan to open and operate a Brazilian jiu-jitsu dojo in [redacted], Florida, where he would work as the "head instructor."

USCIS concluded that the record satisfies the criteria at 8 C.F.R. §§ 204.5(h)(3)(i) and (iv), but not the criteria at 8 C.F.R. §§ 204.5(h)(3)(ii)-(iii), (v), (viii)-(ix), noting that the Petitioner did not assert eligibility under the remaining criteria. On appeal, the Petitioner reasserts that the record satisfies the criteria at 8 C.F.R. §§ 204.5(h)(3)(i), (iii)-(v), (viii)-(ix). For the reasons discussed below, the record does not satisfy at least three of the criteria at 8 C.F.R. §§ 204.5(h)(3)(i)-(x).

### A. Prizes or Awards for Excellence in the Field of Endeavor

The criterion at 8 C.F.R. § 204.5(h)(3)(i) requires "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor."

The extent of USCIS' analysis of this criterion is the conclusory sentence, "This criteria [sic] has been met," without elaborating on what evidence in the record constitutes a nationally or internationally recognized prize or award for excellence in the field of endeavor. We withdraw USCIS' conclusion that the record satisfies this criterion for the following reasons.

The Petitioner asserted that two prizes or awards satisfy this criterion: placing first at a 2023 [redacted] competition, and placing second at a 2023 [redacted], participating in both competitions as an athlete.

We note, however, that the Petitioner stated he intends to train or coach other individuals to perform Brazilian jiu-jitsu, rather than the Petitioner continuing to participate in Brazilian jiu-jitsu competitions as an athlete. More specifically, on the Form I-140, Immigrant Petition for Alien Workers, the Petitioner described the proposed employment as falling among the standard occupational classification for "coaches and scouts," which is distinct from the classification for "athletes and sports competitors." Competitive athletics and coaching rely on different sets of skills and in general are not

in the same area of expertise. *See generally 6 USCIS Policy Manual* F.2(A)(2), https://www.uscis.gov/policy-manual.

As noted above, only aliens who seek to continue to work in the area of extraordinary ability may be eligible for first preference immigrant classification as individuals of extraordinary ability. Section 203(b)(1)(A)(ii) of the Act. Continuing to work in one's area of extraordinary ability, as contemplated by section 203(b)(1)(A)(ii) of the Act, means "working in the same profession in which one has extraordinary ability, not necessarily any profession in that field." *Lee v. Ziglar*, 237 F. Supp. 2d 914, 918 (N.D. Ill. 2002). For example, an individual who has "extraordinary ability as a baseball player does not imply that [the individual] also has extraordinary ability in all positions or professions in the baseball industry such as a manager, umpire or coach." *Id.*

Because the Petitioner stated he intends to work as a coach or trainer of other athletes, we will not consider prizes or awards he may have received as an athlete. *See Mussarova v. Garland*, 562 F. Supp. 3d 837, 844 (C.D. Cal. 2022) (finding that the petitioner's evidence related to awards as a water polo player rather than awarded for excellence in the field of water polo coaching). Therefore, the record does not support USCIS' conclusion that the record satisfies this criterion, and we withdraw USCIS' determination to the contrary.

B. Published Material About the Alien

The criterion at 8 C.F.R. § 204.5(h)(3)(iii) requires "[p]ublished material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation." 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). *See generally* 6 *USCIS Policy Manual*, F.2(B)(1), https://www.uscis.gov/policy-manual.

USCIS acknowledged that the record contains copies of publications from R7 News Portal, IG Portal, and O Globo News Portal. However, USCIS observed that the Petitioner "furnished no supplementary documentation to establish the focus of the publication[s] or [their] level of distribution," which precludes a determination of whether the publications qualify as professional or major trade publications or other major media. Based on those issues, USCIS concluded that the record does not satisfy this criterion.

On appeal, the Petitioner reasserts that the copies of publications from R7 News Portal, IG Portal, and O Globo News Portal satisfy the criterion. The Petitioner references information in the record from Similarweb, Semrush, and Reuters regarding the publications; and he describes R7 News Portal as "major national media," he characterizes IG Portal as "a major national digital media group," and he references O Globo News Portal as "major media" and "one of the most influential news organizations in Latin America."

Neither the R7 News Portal publication nor the O Globo News Portal publication, as translated into English in the record, identifies the individual who authored the material as required by the plain

language of the regulation; therefore, neither of those publications can establish eligibility under this criterion and we need not address them further.

While the copy of the [redacted] 2024 IG Portal publication does include the author's name, the Similarweb information bears minimal probative value because it provides web traffic information between April 2025 and June 2025, rather than addressing what the publication's relative circulation, readership, or viewership was at the time of the article's publication in [redacted] 2024. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). Likewise, information in the record from Semrush about IG Portal bears minimal probative value because it provides web traffic information between "Jan 12" and "Jan 21," and between "Jul 5" and "Jul 24" of some unspecified year(s), although it bears a 2025 copyright, suggesting that it reports two sets of 10-day data in 2025, not at the time of the article's publication in [redacted] 2024. Notably absent from the Similarweb and Semrush information are the global, country, and industry rank for IG Portal, which, while not required, may have helped establish whether it qualifies as major media. Moreover, neither the Similarweb information, nor the Semrush information, nor the remainder of the record identifies publications similar to IG Portal and addresses what those unknown publications' circulation, readership, or viewership was during the relevant period, in order to determine what IG Portal's relative circulation, readership, or viewership may have been at that time. *See generally id.* And while we acknowledge the limited excerpts in the record from a Reuters Institute Digital News Report dated 2025 inform "TV, Radio, and Print" and "Online" data for O Globo, and "Online" data for "Record News online (incl. R7.com)," it does not address IG Portal and what its relative circulation, readership, or viewership may be.

In summation, although the record contains one publication about the Petitioner, relating to his work in the field for which classification is sought, it does not establish that this publication qualifies as a professional or major trade publication or other major media. Therefore, the record does not satisfy this criterion.

C. Leading or Critical Role

The criterion at 8 C.F.R. § 204.5(h)(3)(viii) requires "[e]vidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation." For a leading role, we consider whether evidence establishes the individual is (or was) a leader within the organization or establishment, or a division or department thereof. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). For a critical role, we consider whether evidence establishes the individual has contributed in a way that is of significant importance to the outcome of the organization or establishment's activities, or those of a division or department thereof. *See generally id.*

USCIS acknowledged that the record contains academic credentials, certificates, prizes or awards, publications, a business plan, and recommendation letters. However, USCIS determined that the record does not establish which role(s) the Petitioner claims was leading or critical to any particular organization or establishment. Therefore, USCIS concluded that the record does not satisfy this criterion.

On appeal, the Petitioner asserts that [redacted], and the [redacted] have distinguished reputations and that he has performed in leading or critical roles for them.

As a general matter, the record does not clearly establish, through objective documentary evidence such as employment contracts or paystubs, the time period in which the Petitioner performed any particular role for the referenced organizations or establishments. A letter from the president of [redacted] dated October 2025 claims, without corroborating documentary evidence, "Since 2014, [the Petitioner] has served as technical coordinator and lead instructor for the Martial Arts for [redacted] program, an initiative run by [redacted] in partnership with public schools and community centres [sic] in the southern zone of [redacted]." In turn, a letter from an unspecified representative of [redacted] states, without corroborating documentary evidence, that the Petitioner "began his activities with us in 2021," and he "remains an active member of our faculty" as of December 2024. In contrast, the other letters in the record do not inform the date range in which the Petitioner performed any particular role at a given organization or establishment, and whether those unspecified periods also overlapped with any or all of his other claimed roles. Relatedly, we note that the record contains a copy of the Petitioner's Brazilian fiscal year 2024 income tax return; however, it does not specifically identify any of the referenced organizations or establishments as his employer.

Significantly, because both the [redacted] and the [redacted] letters purport that the Petitioner worked for the respective organizations or establishments simultaneously between some unspecified point in 2021 through December 2024 (and possibly continuing thereafter), the record does not clearly establish whether the Petitioner worked for both—or either—organization or establishment on a full-time or part-time basis during that time, which presents unresolved ambiguities regarding the extent of his involvement with a given entity. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988) (providing that petitioners must resolve ambiguities in the record with independent, objective evidence pointing to where the truth lies); *see also Matter of Chawathe*, 25 I&N Dec. at 375-76 (providing that petitioners must establish that claims are more likely than not true). Moreover, given the other letters' omission of the period during which the Petitioner allegedly performed roles at the other organizations or establishment, if he performed roles simultaneously for more than the two aforementioned entities between 2021 and December 2024, the extent of his involvement at any given organization or establishment during that period remains unresolved.

Setting that issue aside, the record nevertheless does not establish how the Petitioner contributed in a way that is leading or critical to such an organization or establishment, or a division or department thereof. A letter from the president of [redacted] summarizes the Petitioner's supervisory and coordination duties, and it indicates that the Petitioner "officially represents [redacted] at events, lectures and public actions aimed at promotion of educational sport." A letter from a representative of [redacted] references the Petitioner's "time as a member of our teaching staff in the area of martial arts," during which "he collaborated in educational planning, integrating sports practices with other subjects, guided educators in teaching methodologies, and strengthened the institution's reputation within the school community." A letter from an educational coordinator at [redacted] informs that the Petitioner "collaborated with the teaching staff in integrating sports practices into other subjects, and played a central role in the community engagement activities" while "working as a Judo and Jiu-Jitsu teacher" there. A letter from a technical director of the [redacted] describes the Petitioner as "an esteemed member of our league" who has "actively contributed to the success and reputation of the [league] both as a competitor and as a technical director . . . mentoring novice athletes, providing technical guidance, and promoting a culture of respect and excellence within our league." However, the letters do not convey how the Petitioner's

supervision, coordination, educational planning, collaboration, community engagement, competition, technical direction, mentoring, and cultural promotion may have contributed in a way that is either leading or of significant importance to the outcome of the organization or establishment's activities, or those of a division or department thereof. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1). Significantly, the letters do not clearly establish what the outcomes of the organizations' or establishments' activities, or those of a division or department thereof, are. Without establishing what the outcomes of relevant activities are, the record furthermore does not establish how the Petitioner's contributions may have been of significant importance to those outcomes.

We acknowledge that the letter from the president of [redacted] states that the Petitioner "supervises a team of 20 instructors and 38 monitors" and that he "coordinates the technical and pedagogical training of volunteer professionals," indicating some degree of supervision in his duties at that organization or establishment. However, as noted above, a letter from [redacted] also claims that the Petitioner worked on at least a part-time basis for that organization or establishment during a substantial—and recent—portion of the period during which the Petitioner claimed he performed these supervisory and coordinating duties for [redacted]. Thus, the record contains significant ambiguities regarding the extent to which the Petitioner actually is (or was) a leader within [redacted] while also simultaneously performing roles for at least one other organization or establishment. The record does not clarify these ambiguities with objective documentary evidence, such as employment contracts, paystubs, and organizational charts that clearly convey how much time the Petitioner spent performing supervisory duties for [redacted], and whether other individuals may have greater degrees of leadership at [redacted] in general and within any relevant divisions or departments therein. *See generally id.*

Further, the record does not establish that any of the organizations or establishments have a distinguished reputation. On appeal, the Petitioner generally references the publications addressed above under the criterion at 8 C.F.R. § 204.5(h)(3)(iii) and he also asserts that the letters of recommendation from organizations' or establishments' representatives themselves show that the respective organizations or establishments have distinguished reputations.

Merriam-Webster defines "distinguished" as "marked by eminence, distinction, or excellence" or "befitting an eminent person." *Distinguished*, Merriam-Webster.com, www.merriam-webster.com. Factors in determining whether an organization or establishment has a distinguished reputation include but are not limited to its relative size or longevity, the scale of its customer base, and relevant media coverage. *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(1).

Together, the three publications—two of which do not include an author—reference the [redacted] and [redacted], and [redacted] in passing; however, none of the publications address the relative size, longevity, or scale of customer bases for the respective organizations or establishments, or how they otherwise may be marked by eminence, distinction, or excellence. In turn, even if letters from representatives of the organizations or establishments themselves may be considered objective evidence of the organizations' or establishments' reputations rather than merely the organizations' or establishments' opinions of themselves, the letters do not clearly convey the respective organizations' or establishments' relative size, longevity, scale of customer bases, or other information that may establish how they may be marked by eminence, distinction, or excellence. *See generally id.*

For all of the foregoing reasons, the record does not establish that the Petitioner has performed in a leading or critical role for an organization or establishment that has a distinguished reputation and, thus, it does not satisfy the criterion at 8 C.F.R. § 204.5(h)(3)(viii).

D. High Salary or other Significantly High Remuneration

The criterion at 8 C.F.R. § 204.5(h)(3)(ix) 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."

USCIS acknowledged that the Petitioner submitted a copy of his Brazilian income tax return for fiscal year 2024, wage information for "free course instructors" in Brazil, and U.S. Department of Labor wage information for the "Coaches and Scouts" occupational classification. However, USCIS observed that the Petitioner's 2024 income tax return does not indicate what salary or remuneration he may have received for working as a Brazilian jiu-jitsu instructor, and that he did not submit information regarding what jiu-jitsu instructors—rather than "free course instructors" or "coaches and scouts" in general—received in Brazil during fiscal year 2024. Based on those issues, USCIS determined that the record does not satisfy this criterion.

On appeal, the Petitioner claims that USCIS did not address the Petitioner's Brazilian income tax return for fiscal year 2024 and the wage information for "free course instructors" in Brazil. The Petitioner also states that his fiscal year 2024 Brazilian income tax return shows his income "under the legal occupational code used for martial arts instructors" and that the labor market survey "for Code 295 'Instructor and Teacher at Free Schools' [is] the legally correct category for Jiu-Jitsu instructors in Brazil." The Petitioner further asserts that these two documents establish that his fiscal year 2024 income "places [him] at approximately 36% above the highest verified earnings for his legally recognized occupation" and, thus, satisfies the criterion.

We first note that, contrary to the Petitioner's assertions, USCIS specifically addressed the evidence in question. We next note that, also contrary to the Petitioner's assertions, neither his fiscal year 2024 Brazilian income tax return nor the remainder of the record establishes that he received "R$106,581.91 in gross annual income from martial-arts instruction for FY2023 (AY2024)."

The Petitioner's fiscal year 2024 Brazilian income tax return, as translated into English in the record, which is for the 2023 calendar year, indicates that he received R$75,265.05 from the Municipal Finance Department for working as "295 – Instructor and Teacher at Free Schools," and that he received an additional R$15,660 from a source that appears to be his own initials and surname for unspecified reasons, totaling R$90,925.05, not R$106,581.91 as he claims.[1] Further, while the source of the income is listed as the Municipal Finance Department, the Petitioner has not sufficiently established the actual source(s) of that income. For example, while the record contains various letters discussed above relating to the leading or critical role criterion that may cover some or all of calendar year 2023, the Petitioner did not submit any further documentation, such as a letter from the Municipal Finance Department, to establish the basis for this income. In other words, the Petitioner has not established whether his income derived from more than one role, as may have been the case based

[1] Because the Petitioner has not demonstrated or even addressed the source of this additional income, we cannot consider it here.

upon the letters submitted, and whether it was received from a company or some other source, In turn, the labor market survey, as translated into English in the record, provides wage information for "free course instructors" at trainee, junior, full, senior, and master professional levels and is limited to small, medium, and large companies in the state of [redacted] during the period of "08/05/2024 to 08/05/2025." The labor market survey's methodology relies on limited data sources, speculative and overly broad information, and it does not cover calendar year 2023, the year he relies on to meet this criterion. The survey, as translated, states that it used "166 salaries and 2 contributions," reporting "intended salaries and salary contributions," sourced from "resumes registered with the National Jobs Bank and salary contributions of the BR Salary in the last twelve months."

In addition, the wage survey provides overly broad information regarding all "free course instructors" in the state of [redacted] without accounting for variances that may occur among disparate specializations or educational levels. Furthermore, neither the survey nor the remainder of the record clarifies how "166 salaries and 2 contributions" reporting "intended" data throughout the state of Sao Paulo accurately reflects what a statistically significant portion of "free course instructors," actually received.

Because the labor market survey appears to correspond almost entirely to a time period other than that in which the Petitioner claims he commanded a high salary or other significantly high remuneration for services, because its methodology relies on limited sources and speculative information, and because it purports to show generalized information without adjusting for variances in specializations and localities, it bears minimal probative value for this criterion. The record does not otherwise establish what the salary or other remuneration of others in the field was during the relevant period; therefore, the record does not satisfy this criterion.

Because the record would not satisfy at least three of the 10 criteria at 8 C.F.R. §§ 204.5(h)(3)(i)-(x) even if the Petitioner met the criterion at 8 C.F.R. § 204.5(h)(3)(v), we reserve our opinion regarding that criterion. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (stating that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision); *Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

## III. CONCLUSION

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. at 25.

**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.