U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42469760

Date: MAY 13, 2026

Motion on Administrative Appeals Office Decision

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

The Petitioner seeks classification as an individual of extraordinary ability in athletics. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

Service Center Operations (SCOPS) denied the petition, concluding that the Petitioner did not establish that he met at least three of the ten initial evidentiary criteria for this immigrant classification. We dismissed a subsequent appeal. Although we concluded that the Petitioner met the initial evidence requirements by satisfying three evidentiary criteria, we determined the record did not demonstrate that he has achieved sustained national or international acclaim and is among that small percentage of individuals at the very top of his field. The matter is now before us on combined motions to reopen and reconsider.

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). Upon review, we will dismiss the motions.

I. LAW

A. The Extraordinary Ability Classification

An individual is eligible for the extraordinary ability immigrant classification under section 203(b)(1)(A) of the Act 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 country to continue working in the area of extraordinary ability; and their entry into the United States would substantially benefit the country. 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 provide evidence of a one-time achievement (that is, a major, internationally recognized award). If a petitioner does not submit this evidence, then they must provide documentation that they meet at least three of the ten criteria 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). Where a petitioner demonstrates that they meet 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 they are 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 analysis of extraordinary ability "consistent with the governing statute and regulation").

B. Motion Requirements

A motion to reconsider must state the reasons for reconsideration; be supported by any pertinent precedent decision to establish that the decision was based on an incorrect application of law or policy; and establish that the decision was incorrect based on the evidence in the record at the time of the decision. 8 C.F.R. § 103.5(a)(3). A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

II. ANALYSIS

The issues before us on motion are (1) whether the Petitioner has demonstrated our decision to dismiss his appeal was based on a misapplication of law or policy and was incorrect at the time we issued the decision; and (2) whether he has submitted new facts, supported by documentary evidence, to warrant reopening.

Although the Petitioner has stated reasons for reconsideration, the record does not establish that our appellate decision was based on an incorrect application of law or policy at the time we issued our decision. Nor has the Petitioner offered new facts or evidence relevant to our latest decision establishing his eligibility for the classification sought. Accordingly, we will dismiss both motions for the reasons discussed below.

A. The AAO's Decision

In our decision dismissing the Petitioner's appeal, we agreed with SCOPS' determination that he satisfied the criteria at 8 C.F.R. § 204.5(h)(3)(i) and (iii) by submitting evidence of awards and published material. In addition, contrary to SCOPS' conclusion, we determined that the Petitioner satisfied a third criterion by providing evidence he fulfilled the judging criterion at 8 C.F.R. § 204.5(h)(3)(iv). Accordingly, we proceeded to a final merits determination, wherein we concluded that the totality of the evidence did not show the Petitioner had achieved sustained national or

international acclaim and demonstrate that he is among the small percentage at the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

Our appellate decision acknowledged the Petitioner's victories at the [redacted] (2022), the [redacted] (MMA) competition - featherweight category (2018), and the [redacted] (2024) as well as his [redacted] (win-loss-draw) and [redacted] th ranking in the North American region, but concluded that the record did not sufficiently contextualize the evidence of the Petitioner's competitive bouts to show his sustained national or internation acclaim or standing among that small percentage who have risen to the very top of the field. *Id.* Likewise, regarding his judging roles, our decision indicated the Petitioner served as a referee for [redacted] ([redacted]) competitions, but we determined he did not sufficiently demonstrate that his participation was indicative of sustained national or international acclaim or elevated him to that small percentage who have risen to the very top of their field. *Id.* As it relates to his media coverage, our decision noted only two items reflecting published material about the Petitioner in 2023 and 2024. We concluded therefore that the Petitioner did not demonstrate his minimal press coverage was consistent with sustained national or international acclaim or being among that small percentage who have risen to the very top of the field of endeavor. *Id.* Lastly, our decision acknowledged the Petitioner's submission of multiple recommendation letters praising his fighting skills but concluded that they were insufficient to show his sustained national or international acclaim or standing among the small percentage at the very top of the field of endeavor. *Id.*

B. Motion to Reconsider

On motion, the Petitioner states that in January 2026, the United States District Court for the District of Nebraska issued a decision in *Mukherji* v. *Miller*, No. 4:24-CV-3170 (D. Neb. Jan. 28, 2026), that invalidated U.S. Citizenship and Immigration Services (USCIS)' two-step final merits determination framework as unlawfully adopted without notice and comment rulemaking and ordered USCIS to approve the petitioner's petition. The Petitioner provides a copy of the decision and asks us to consider this ruling when evaluating his petition and apply the legal standards as interpreted by the court.

Here, in contrast to the precedential authority of the case law of a United States circuit court, we are not bound to follow a decision of a United States district court. *See Matter of K-S-*, 20 I&N Dec. 715 (BIA 1993). Moreover, while we may consider the court's reasoning when it is properly before us, unpublished opinions are not considered binding precedent. *See Suchite-Salguero v. Att'y Gen. United States*, 147 F.4th 355, 359-60 (3d Cir. 2025) ("[W]e have cautioned over and over again that non-precedential opinions carry little to no weight for future cases."); *Wang v. Holder*, 569 F.3d 531, 538 n.5 (5th Cir. 2009); *cf. Matter of K-S-*, 20 I&N Dec. 715, 719 (BIA 1993) (considering the reasoning of district court decisions). Accordingly, we conclude our appellate decision was not erroneous in its analysis of the instant visa petition under the current two-step review framework provided in *Kazarian* and that we are not bound by the ruling of *Mukherji* v. *Miller* in the instant case. *See Kazarian v. USCIS*, 596 F.3d at 1115.

The Petitioner also asserts: "In the dismissal, the AAO makes predetermination of the kind of evidence he or she thinks the person should be able to submit and denies the petition stating that particular type of evidence is absent, which is prohibited by *USCIS Policy Manual*." Our decision, however, was not based on the absence of any specific type of evidence. Rather, we concluded that "[t]he record as a

whole did not establish that he has risen to the level of the small percentage at the very top of the field or that he enjoys sustained national or international acclaim." *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

In addition, the Petitioner contends that our decision "contains *ultra vires* language" in stating that he "did not establish, for instance, that he garnered wide attention from the field based on his referee work." The Petitioner writes: "Nowhere in the regulations, case law, or the *USCIS Policy Manual* does it state that the Petitioner needs to show that they have garnered wide attention from the field in order to meet this criterion." Our statement, however, included the qualifier of "for instance." Our decision was simply offering an example of the type of evidence that may help to demonstrate that an individual has extraordinary ability and sustained national or international acclaim at the very top of their field.

Regarding the submitted published material relating to the Petitioner, he takes issue with our conclusion that he "did not demonstrate that such minimal press coverage is consistent with the sustained national or international acclaim necessary for this highly restrictive classification." We explained in our decision that "the limited media reporting" of just two articles about the Petitioner was not reflective of sustained acclaim or a "career of acclaimed work in the field." The *USCIS Policy Manual* provides that in determining whether a petitioner "has enjoyed 'sustained' national or international acclaim, such acclaim must be maintained."[1] *See generally* 6 *USCIS Policy Manual* F.2(A)(1), https://www.uscis.gov/policy-manual/volume-6-part-f-chapter-2. A person may, for example, have achieved national or international acclaim in the past but then failed to maintain a comparable level of acclaim thereafter. *Id.* Here, the Petitioner has not shown that our appellate decision misapplied relevant law, regulation, or USCIS policy in requiring him to demonstrate sustained national or international acclaim. *See* section 203(b)(1)(A) of the Act.

The Petitioner also contends that our decision overlooked the content of the letters of recommendation he submitted in support of the petition. Our decision acknowledged that the Petitioner provided letters of support from others involved in his sport.[2] Letters of this kind are helpful to explain the nature and impact of the Petitioner's athletic accomplishments in the field. However, while not without weight in the final merits determination, reference letters should explain in specific terms why the authors believe the Petitioner qualifies as a person with extraordinary ability, and should be supported with sufficient corroborating documentary evidence to establish that the Petitioner is recognized as being among that small percentage at the very top of the field of endeavor and that he has garnered the required sustained national and international acclaim for her achievements. *See generally* 6 *USCIS Policy Manual*, *supra* at F.2(B)(3) (discussing the evidentiary value of letters of support at the final merits determination stage).

For example, H-R-, founder and CEO of the [redacted]), stated:

> We are here to confirm that [the Petitioner], a renowned professional MMA leading athlete representative of team [redacted], out of all the athletes competing on behalf

[1] According to *Black's Law Dictionary* (11th ed. 2019), the definition of sustain is "to support or maintain, especially over a long period of time . . . To persist in making (an effort) over a long period of time."

[2] While we discuss a sampling of these letters, we have reviewed and considered each one.

of the team, [the Petitioner] is within the top Black Belt competing and winning professional events, he is one of the highest ranked athletes representing [redacted]. On his last fight the petitioner was able to contribute to his team as he was the athlete receiving the most points of the night's fight from his team. Throughout our organization, [the Petitioner] is one of the most important athletes representing [redacted] with our events.

Moreover, he has been representing [redacted] in our events, has sustained his international acclaim, through his reputation and awards in the sport, which have caught my attention and piqued my interest to have him compete on our events.

Within this highly competitive structure, [the Petitioner] has been a consistent and outstanding presence. He has fought in three of our six [redacted] events, defeating top-tier opponents including an undefeated [redacted], a well-known [redacted]. His performances were watched by national and international audiences and helped elevate the level of competition within the league.

In addition, G-D-, President of the [redacted], asserted:

The Petitioner is a distinguished professional in the world of mixed martial arts, widely regarded for his extraordinary talent and unparalleled high skills. This Federation unequivocally acknowledges [the Petitioner] as an athlete of enduring national and international acclaim, whose remarkable achievements and mastery in the sport place him firmly at the pinnacle of his field. His relentless dedication, combined with an impressive track record of victories, ensures that he is not only among the elite but stands as a true testament to excellence in MMA.

Furthermore, S-D-F-, Head Coach at [redacted] in Arizona, wrote:

Since joining our team, [the Petitioner] and I have worked together on four of his professional fights, each time witnessing his commitment to growth and improvement. His skills as a Brazilian Jiu-Jitsu black belt, recognized by the martial arts community, bring a unique and irreplaceable asset to our training environment. [The Petitioner's] technical expertise in Jiu-Jitsu has elevated the skill level of our entire team, and his guidance has greatly benefited his teammates as they work to sharpen their own grappling skills.

. . . .

His high skills in the sport, combined with his reputation as one of the athletes at the top of his field has been essential to our team in bringing and aggregating a huge value and recognition to our gym and our athletes. He has innate talent and performance in the sport exceeds the talent and performance in the field, having won the majority of his fights.

. . . .

> [The Petitioner] is a professional athlete competing at the highest level, consistently pushing the limits of the sport and demonstrating what can be achieved through his exceptional skill and remarkable talent. He is a dominant figure in the field and will remain instrumental in showcasing how the United States is advancing and cultivating this sport on the global stage.

In his initial letter, R-D-B-, an American MMA professional fighter whose coach, J-L-, also trains the Petitioner (J-L-), stated:

> As a fellow black belt in Jiu-Jitsu, I have had the privilege of training with [the Petitioner] over the years, and I can say without hesitation that his technical ability is among the best. His Jiu-Jitsu is not only sharp but adaptable, making him a versatile fighter both on the mat and in the cage. [The Petitioner's] skills have been a tremendous asset to my training, particularly due to our similar weight class, and his contributions have helped improve my own performance.
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> [The Petitioner] has received a reputation as an internationally recognized competitor that has already won the most reputable tournaments around the world. This talented athlete has an aptitude for Mixed Martial Arts competitions that few will ever achieve. He has won significant titles in Jiu Jitsu, such as the [redacted] by [redacted] in Portugal, and [redacted] in [redacted], AZ 2018. Most recently he has won his fights at the renowned [redacted].
>
> He has also won many other significant Mixed Martial Arts competitions in Brazil, Thailand and Argentina, helping our world-famous team keep our international reputation and achievements. He has invited to compete at two of the most significant Mixed Martial Arts Leagues in the U.S., the [redacted], and the [redacted], competitions in which only athletes with international reputation with a high level of skills in the sport are invited to compete at.

These letters from individuals close to the Petitioner and organizations affiliated with him describe his skills and accomplishments as a fighter, but they do not demonstrate that his achievements have been widely recognized in his sport or otherwise show that he has garnered sustained national or international acclaim at the very top of his field. Overall, while the recommendation letters attest to the Petitioner's significant expertise in his sport and competitive success, they do not establish his extraordinary ability when considered in the totality of the evidence. The letters do not show that the Petitioner has achieved national or international acclaim from the field or attracted a level of attention placing him at the very top of her field. *See Jafarov v. United States Citizenship & Immigr. Servs.*, No. 23 CIV. 3372 (PAE), 2024 WL 69056, at *9 (S.D.N.Y. Jan. 5, 2024) (finding testimonial letters were insufficient to establish his relative status in the field and do not compare him to others).

Further, the letters' authors did not provide sufficient information and explanation to show that the Petitioner is viewed by the overall field, rather than by a solicited few, to be among the upper echelon or that he has garnered recognition in his sport on a national or international scale, consistent with

being among the small percentage at the very top of the field of endeavor. *Mishra v. Richardson*, No. 1:20-cv-991 (LMB/TCB), 2021 WL 1566071, at *3 (E.D. Va. Apr. 20, 2021) (finding that none of the plaintiff's letters point to evidence of extensive documentation of his accomplishments to show sustained national or international acclaim). Although the letters highlight the Petitioner's skills and competitive accomplishments, they do not reflect a career of acclaimed work in the field, garnering the required sustained national or international acclaim. *See Bodhankar v. USCIS*, No. 1:19-CV-706 (MAD/CFH), 2020 WL 777211, at *5 (N.D.N.Y. Feb. 18, 2020) (finding the submitted letters failed to establish the plaintiff's contributions resulted in significant acclaim).

The Petitioner has not shown that we erred in concluding that record as a whole, including the letters discussed above, does not establish his eligibility for the benefit sought.[3] Here, the Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than those progressing toward the top. *Matter of Price*, 20 I&N Dec. 953, 954-55 (Assoc. Comm'r) (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of "extraordinary ability"); *Amin v. Mayorkas*, 24 F.4th at 394 (stating that extraordinary ability is such an elite level of accomplishment); *Lapteva v. Schuurmans*, No. 8:24CV83, 2025 WL 815087, at *1 (D. Neb. Mar. 10, 2025) (stating that EB-1 visa are intended to be available to only an exceedingly small amount of individuals with extraordinary ability).

Based on the foregoing discussion, the Petitioner has not demonstrated that we misapplied law or USCIS policy in our prior decision dismissing his appeal, nor has he established that our decision was incorrect based on the evidence in the record at the time of our decision. *See* 8 C.F.R. § 103.5(a)(3). Accordingly, we will dismiss the motion to reconsider.

C. Motion to Reopen

In support of the motion to reopen, the Petitioner submits an October 2025 letter from A-F-, Executive Director of the [redacted]), who states that the Petitioner "participated as a volunteer referee for the following [redacted] event[s]: [redacted], [and] [redacted]." Each of the three 2025 championships mentioned post-dates the filing of the petition and therefore would not establish the Petitioner's eligibility at the time of filing.[4] Additionally, the Petitioner provides an [redacted] 2025 article in [redacted], entitled "[redacted]: Check out the highlights registered in the black belt." This article, which also post-dates the filing of the petition, does not mention the Petitioner or discuss his participation as a judge and therefore it does not show his acclaim in the sport. The petition in this matter was filed on April 10, 2025, and the Petitioner has the burden of proof to establish eligibility for the requested benefit at the time of filing. *See* 8 C.F.R. § 103.2(b)(1), (12); *see also Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm'r 1971) (providing that "Congress did not intend that a petition that was properly denied because the beneficiary was not at

[3] *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(2) (providing that some evidence weighs more favorably on its own, while other evidence is more persuasive when viewed with other evidence).

[4] Our appellate decision addressed the Petitioner's judging service for the [redacted], which included the [redacted].

that time qualified be subsequently approved at a future date when the beneficiary may become qualified under a new set of facts").

The Petitioner also presents a new letter (dated February 2026) from R-D-B- who states:

> I have known [the Petitioner] since 2017 through our shared training lineage under Coach J-L- at [redacted]. I have trained with [the Petitioner] both internationally and in the United States, including in professional training environments reserved for elite-level fighters.
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> . . . .
>
> *Tapology*, a widely relied-upon independent MMA ranking platform used by promoters, scouts, and professional organizations, recognizes [the Petitioner's] sustained national recognition as an athlete at the top of the field, by stating "[the Petitioner] is also ranked in [redacted]. He is only ranked in regions where he has fought at least 2 times out of his last 6 MMA bouts. [The Petitioner] is ranked at [redacted] in each region, since he fought at least once in the weight class in his last 2 fights."
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> According to the same *Tapology* page further, [the Petitioner] is currently ranked [redacted] out of 18,736 professional fighters worldwide in the North America region, placing him within the top 6% of all professional MMA athletes.
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> . . . .
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> In a sport with tens of thousands of competitors worldwide, being ranked in the top 6%, and further having regional acknowledgment tied to recent, repeated competition, is not common, routine, or expected. It reflects sustained professional success, competitive wins against high-level opponents, and recognition within the sport's official ranking ecosystem. From a professional standpoint, this level of ranking clearly satisfies the standard of being among the small percentage who have risen to the very top of the field.

In addition, the Petitioner offers a February 2026 letter from his coach, J-L-, who indicates:

> I personally trained, promoted, and coached [the Petitioner], and I can state without hesitation that he possesses a level of ability, competitive success, and recognition that far exceeds what is ordinarily encountered among professional MMA athletes. In addition to his championship titles and professional record, [the Petitioner's] standing among professional fighters is objectively demonstrated by his *Tapology* global ranking, a widely used and respected database within the MMA industry that tracks and ranks professional fighters worldwide. According to *Tapology*, Mr. [redacted] is currently ranked [redacted] out of approximately 18,647 professional MMA athletes worldwide, placing him within the top 6 percent of all ranked professional fighters globally.

> [The Petitioner] is a professional MMA athlete with an [redacted] record, and he has competed and succeeded in prestigious professional organizations in multiple countries. His professional record of [redacted] wins highlights his consistent success at the highest levels of mixed martial arts. Each of these victories has been achieved against highly skilled, nationally and internationally recognized opponents in prestigious professional promotions.

The Petitioner states on motion that our decision did not mention that "he was ranked of [redacted] out of 17,942 total athletes in North America, which places him at the top [redacted] of best athletes in the sport in North America."[5] He contends that "[b]eing ranked among the top [redacted] of all athletes in the North American region is evidence that, more likely than not, [he] has received international recognition as a professional at the very top of the field." The Petitioner, however, has not shown that the *Tapology* rankings of [redacted] out of 17,942 total athletes in North America, [redacted] out of 18,736 professional fighters in the North America region, or [redacted] out of approximately 18,647 professional MMA athletes worldwide place him among the small percentage of individuals at the very top of his sport. *See Noroozi v. Napolitano*, 905 F. Supp. 2d 535, 545-46 (S.D.N.Y. 2012) (upholding plaintiff's 284th ranking in the world in table tennis and 65th finish at the 2008 Olympics fell short of making him one of that small percentage who has risen to the very top of the field of endeavor). *See also Matter of Price*, 20 I&N Dec. at 954 (holding that even athletes performing in the premier league of their sport do not automatically meet the extraordinary ability standards).

Regarding the Petitioner's motion to reopen, it does not offer new facts and is not supported by documentary evidence rendering him eligible for the visa classification sought. Because he has not established new facts that would warrant reopening of the proceeding, we have no basis to reopen our prior decision.

III. CONCLUSION

The Petitioner has not offered new facts or evidence in support of the motion to reopen to establish his eligibility for classification as an individual of extraordinary ability. On motion to reconsider, the Petitioner has not established that our previous decision was based on an incorrect application of law or policy, or that it was incorrect at the time we issued our decision. Therefore, the motions will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reopen is dismissed.

FURTHER ORDER: The motion to reconsider is dismissed.

NOTICE: 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.

[5] Our decision, however, specifically stated that he "ranked [redacted] as an MMA fighter in the North American region."