U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 35894228

Date: MAY 28, 2025

Motion on Administrative Appeals Office Decision

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

The Petitioner, a dog sled racer, seeks classification as an individual of extraordinary ability in athletics. 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.

SCOPS denied the petition, concluding that the Petitioner did not establish that she has either a one-time achievement under 8 C.F.R. § 204.5(h)(3) or has met least three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). We dismissed a subsequent appeal. The matter is now before us on motion to 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 motion.

I. LAW

A motion to reconsider must establish that our prior decision was based on an incorrect application of law or policy and that the decision was incorrect based on the evidence in the record of proceedings at the time of the decision. 8 C.F.R. § 103.5(a)(3). 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.

Section 203(b)(1)(A) of the Act makes visas available to aliens with extraordinary ability who: have 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; seek to enter the United States to continue work in the area of extraordinary ability, and whose entry will offer substantial prospective benefits for 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 regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis for the adjudication of extraordinary ability petitions filed under section 203(b)(1)(A) of the Act. First, a petitioner must meet the initial evidentiary requirements by either showing that they have a one-time achievement (that is, a major, internationally recognized award) or by providing evidence that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). If a petitioner meets these initial requirements, we then conduct a final merits determination which considers whether the totality of the evidence demonstrates sustained national or international acclaim and 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, 1119-20 (9th Cir. 2010); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339, 1342-43 (W.D. Wash. 2011).

II. ANALYSIS

On motion, the Petitioner contests the correctness of our prior decision, disputing our conclusion that she did not provide sufficient evidence to establish that she has a one-time achievement under 8 C.F.R. § 204.5(h)(3).[1] In support of the motion, the Petitioner relies on the relevant statute and regulation, the U.S. Citizenship and Immigration Service (USCIS) Policy Manual, and the legislative history of the extraordinary ability statute found at H.R. Rep. No. 101-723, at 59 (1990), *reprinted in* 1990 U.S.C.C.A.N. 6710, 6739.

Specifically, the Petitioner maintains that the following awards from the [redacted] all qualify as major, internationally recognized awards in her field:

- 2016-17 [redacted] first place, two-dog and four-dog sprint category;
- 2017 [redacted] first place;
- 2018-19 [redacted] first place, two-dog and four-dog sprint category; and
- 2018-19 [redacted] first place, six-dog sprint category.

In our decision dismissing the Petitioner's appeal, we concluded that she did not submit sufficient documentation to establish that these awards are recognized beyond the awarding entity to an extent that they are "major internationally recognized awards" as contemplated by 8 C.F.R. § 204.5(h)(3). The Petitioner contends this conclusion was in error because it took into consideration the awards' level of general public recognition, rather than considering only their level of recognition within the field of dog sled racing. The Petitioner further states that since she "won, multiple times over several years, the top award in her field," she is by definition qualified for the extraordinary ability classification, as her receipt of such awards places her among "the small percentage who have risen to the very top of the field of endeavor." Citing *Kisor v. Wilkie*, 139 S.Ct. 2400 (2019), the Petitioner maintains that the regulatory definition of "extraordinary ability" at 8 C.F.R. § 204.5(h)(2) is unambiguous and that this standard is clearly met "when applied to a world champion with multiple first place finishes."

[1] While the Petitioner also previously claimed to meet three of the ten criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), she does not pursue this argument on motion. As such, we consider this issue waived and will not address it further. *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)).

Upon review, the Petitioner established that our prior decision was based on an incorrect application of law or policy or that it was otherwise incorrect based on the record of proceedings at the time of that decision.

The Petitioner has not provided a statute, regulation, precedent case, or policy stating that USCIS may not consider an award's level of public recognition when determining whether it qualifies as a one-time achievement under 8 C.F.R. § 204.5(h)(3). The extraordinary ability statute and regulations do not define the term "one-time achievement" beyond equating it to a "major internationally recognized award" and implicitly differentiating such awards from "lesser nationally or internationally recognized prizes or awards" under the alternate evidentiary criteria. *See* section 203(b)(1)(A) of the Act, 8 C.F.R. § 204.5(h)(3)(i); *see also Rijal*, 772 F.Supp.2d at 1345 ("Nothing in either [the Act] or the regulations implementing it explains how USCIS or a reviewing court is to differentiate between 'major' and lesser awards.").

The Petitioner argues that Congress, by concluding in H.R. Rep. No. 101-723(I), at 59 (1990), *reprinted in* 1990 U.S.C.C.A.N. 6710, 6739, that "admission under this category is to be reserved for that small percentage of individuals who have risen to the top of their field of endeavor," intended that the top prize in a field of endeavor always constitutes a one-time achievement regardless of that award's recognition level with the broader public. First, however, the House report is not itself a law, regulation, precedent case, or otherwise binding policy. Further, the quoted passage does not describe what constitutes a one-time achievement but instead describes the classification's overall requirements after stating that eligibility may be demonstrated either through such an achievement *or* through "a career of acclaimed work in the field." *Id.* The report also states that the "extensive documentation" is required to show extraordinary ability "may include . . . media accounts of the alien's contributions to his profession," indicating that publicity is a valid consideration in determining eligibility.

As noted above, a one-time achievement is sufficient in and of itself to meet the initial evidentiary requirements, while a person with a lesser nationally or internationally recognized prize or award would still need to establish eligibility under two other criteria in order for USCIS to proceed to the final merits determination. 8 C.F.R. § 204.5(h)(3). The regulation therefore implicitly requires a one-time achievement to be of a higher caliber than a "lesser" award – simply being nationally or internationally recognized in the field is insufficient. *Id.* Federal courts have repeatedly recognized that one factor which may distinguish a "major" award from a "lesser" one is its level of recognition by the general public. *See, e.g., Visinscaia*, 4 F.Supp.3d at 133 (upholding AAO dismissal which considered media coverage and general public recognition of a prize in an "esoteric field" when adjudicating a one-time achievement). The Petitioner has not provided any binding legal authority to the contrary.

The Petitioner also contends that our reasoning is legally incorrect because it means that a person cannot qualify under the one-time achievement provision if they work in a smaller or more obscure field. We acknowledge that the law only requires a person's field of extraordinary ability to fall within the areas of athletics, business, education, or the arts, and does not require that field to be highly publicized or well-known to the general public. Section 203(b)(1)(A) of the Act. It is not apparent, however, that this means that individuals in any field, no matter how obscure, must be able to qualify specifically through a one-time achievement, given that an alternate route to eligibility exists. In cases where an individual cannot obtain a one-time achievement, including instances where it is not

available in a field, the individual "can also qualify on the basis of a career of acclaimed work in the field" by satisfying three of the ten categories of evidence. *See* H.R. Rep. at 59 and 8 C.F.R. § 204.5(h)(3). Furthermore, if any of the ten criteria do not readily apply to a given field, petitioners may submit comparable evidence of eligibility. 8 C.F.R. § 204.5(h)(4).[2] There are therefore multiple ways for a person in a more obscure field to qualify for the extraordinary ability classification even without a one-time achievement. The regulation does not allow a petitioner to substitute lesser awards as one-time achievements in instances where there is no qualifying major internationally recognized award in the field.

Upon review, however, there is no need to reach the issue of whether the top prize in an esoteric field may qualify as a one-time achievement regardless of recognition level, because the record does not establish that the Petitioner has won the top prize in her field. The Petitioner asserts that because USCIS lacks expertise in the field of dog sled racing, we should defer to the provided letters from [redacted] and subsidiary [redacted] officials stating that her awards are the highest that [redacted] bestows. However, while we may use such support letters as advisory opinions, we are ultimately responsible for making the final determination regarding the Petitioner's eligibility. *Matter of Caron International, Inc.,* 19 I&N Dec. 791, 795 (BIA 1988). If an expert opinion letter is not in accord with other information or is in any way questionable, we may give it less evidentiary weight. *Id.*; *see also Matter of Chawathe*, 25 I&N Dec. at 375-76 (stating that in adjudicating by the preponderance of the evidence standard, we examine each piece of evidence for relevance, probative value, and credibility, both individually and in the context of the totality of the evidence).

While some letters from various sled dog racing officials classify both the Petitioner's World Championship prize and World Cup prizes as the highest awarded by [redacted] the record contains other evidence which distinguishes between these two types of awards. [redacted] published regulations indicate that the World Championships are held every other year, while World Cup medals are awarded at the end of each season of [redacted] accredited races, using a point system. A May 2023 letter from [redacted] President [redacted] specifically describes the [redacted] as "the highest honor" in the sport. The submitted "General Conditions, Requirements and Definitions" for the [redacted] states that accredited races will, "in principle" be those of "international importance," but there is insufficient evidence to demonstrate that winning a World Cup medal is equivalent to winning a World Championship. For example, the evidence indicates that athletes who achieve a top three World Cup ranking will qualify for pre-selection to compete in the World Championships, a fact which further supports a determination that the World Championship represents the highest level of achievement in the sport. It is not evident that the [redacted] accredits any events other than individual World Cup qualifying races, continental championships, and World Championships. Nevertheless, the record shows that there is a hierarchy among these different events.

In addition, to the extent that the Petitioner provided evidence of race results to accompany her medals and award certificates, this evidence shows that the Petitioner received awards in the sub-category of racers who compete with registered breed sled dogs (also known as [redacted]. For example, the letter from the [redacted] states that the Petitioner won a gold medal in the 2017 [redacted], but the provided race results table for this event states

[2] There is no comparable evidence for the one-time achievement of a major international recognized award. *See generally* 6 *USCIS Policy Manual* F.2(B)(1).

that she finished in 17th place out of 25 racers in the [redacted] category, and was only in first place among the seven racers who drove [redacted] dog teams. Additionally, the medal from this competition does not state that it is for a first-place finish.[3] The Petitioner's 2017 World Cup results similarly show that she achieved her gold medal after accumulating points for her placement in three races in the [redacted] class during the 2016-2017 season. The record does not contain her individual race results or show the number of competitors in this class.

The [redacted] and other association letters do not address the relative prestige level of achievements in the [redacted] sub-category in comparison to the broader field of racers. Without such clarification, the record does not support a determination that a medal awarded for a 17th place finish is considered a world championship medal of the same or greater caliber as one awarded for a 1st place finish in the overall field. The expert opinion letters provided are therefore not in accord with other information in the petition, and so we decline to grant them decisive weight. *Matter of Caron International, Inc.*, 19 I&N Dec. at 795.

We further note that while the Petitioner claims that she would qualify for the extraordinary ability classification if we restricted our analysis to her awards' level of recognition in her field, she has not provided evidence establishing such recognition exists outside of [redacted] and its subsidiary national dog sledding associations. The various news articles in the record are largely from local newspapers listing various [redacted] races as local events or noting that a local resident has competed in or won such a race as a human interest story. A few articles from larger publications comment on [redacted] events such as dog sled racing on snow, dryland racing, and skijoring (in which an athlete on skis is pulled by a dog) as up-and-coming sports. None constitute international recognition of the [redacted] in the [redacted] subclass of sprint racing, or of the [redacted]

We acknowledge that [redacted] is recognized by the International Olympic Committee as the international governing body of sled dog racing. However, we decline to conclude that prizes which are reserved for a small sub-category of racers and which are not nationally or internationally recognized beyond their awarding entity constitute the kind of major, internationally recognized awards that are required to demonstrate a one-time achievement under 8 C.F.R. § 204.5(h)(3). *C.f. Visinscaia*, 4 F.Supp.3d at 132-33 (upholding AAO conclusion that "an age-limited award in an esoteric field did not, on its face, look like a major award").

Finally, the Petitioner contends that the only relevant consideration in determining whether a prize is a one-time achievement is whether that prize demonstrates the winner's "status as one of the small percentage at the very top of the field." However, as noted, the Petitioner conflates the two parts of the *Kazarian* analysis. The issue of whether a person is one of that small percentage at the very top of their field is only considered during the final merits determination. Our analysis does not reach that stage unless the Petitioner first fulfills the initial evidentiary requirements either through a one-time achievement or through evidence meeting at least three of the ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). *Kazarian*, 596 F. 3d at 1119-20. She has not done so here.

[3] We note that [redacted] maintains lists of every elite-level championship medalist in its competitions from 1988 to 2023 on its public website, and the Petitioner's name does not appear on them. [redacted] *Medalists of* [redacted], https:/[redacted]net/eng/50 (lists available as PDF documents).

On motion to reconsider, the Petitioner has not established that our previous decision was based on an incorrect application of law or policy at the time we issued our decision. Therefore, the motion will be dismissed. 8 C.F.R. § 103.5(a)(4).

ORDER: The motion to reconsider is dismissed.