



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

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

In Re: 37072750

Date: FEB. 26, 2025

Appeal of Texas Service Center Decision

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

The Petitioner, a speed skating coach, seeks classification as an individual of extraordinary ability in the sciences. *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.*

The Director of the Texas Service Center denied the petition, concluding that the Petitioner did not establish that he had received a one-time achievement (a major, internationally recognized award) or that he satisfied at least three of the initial evidentiary criteria, as required for the requested classification. 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 withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

I. LAW

Section 203(b)(1)(A) 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 recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If the petitioner does not submit this evidence, then they must provide sufficient qualifying documentation that meets 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). If the evidentiary standards do not “readily apply” to a petitioner’s occupation, 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). (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 Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

II. ANALYSIS

The Petitioner states that he is a speed skating coach with more than 20 years of experience in coaching world-class athletes at the highest levels of competition, including the Olympic Games and World Cup. He intends to continue coaching speed skating in the United States.

Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must demonstrate that he satisfies at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner initially claimed that he met six of these criteria:

- (i), Receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor;
- (ii), Membership in associations that require outstanding achievements;
- (iii), Published materials in major trade or professional publications or other major media;
- (v), Original contributions of major significance;
- (viii), Performing in leading or critical roles for organizations or establishments with a distinguished reputation, and;
- (ix), Commanding a high salary, or other significantly high remuneration for services.

The Petitioner also submitted comparable evidence to establish his eligibility under these criteria, pursuant to 8 C.F.R § 204.5(h)(4).

The Director determined that the Petitioner satisfied one of the claimed criteria. Specifically, the Director concluded that the Petitioner is a member in an association that requires outstanding

achievements and thus satisfied the plain language of the criteria at 8 C.F.R. § 204.5(h)(3)(ii). The record supports the Director's conclusion that the Petitioner satisfied this criterion.

The Director issued a request for evidence (RFE), notifying the Petitioner that the evidence in the record was not sufficient to establish that he met the claimed criteria at 8 C.F.R. § 204.5(h)(3)(i) and (viii). The Director did not acknowledge or analyze the Petitioner's evidence submitted in support of the remaining claimed criteria. Nor did the Director discuss the Petitioner's comparable evidence of eligibility under 8 C.F.R. § 204.5(h)(4) for any criteria.

The Petitioner responded to the RFE and submitted additional evidence in support of his claimed eligibility under the six initially claimed criteria.

In denying the petition, the Director again discussed the Petitioner's claims of eligibility only under the criteria at 8 C.F.R. § 204.5(h)(3)(i) and (viii). The Director incorrectly stated that the Petitioner "was a Financial Risk Specialist who intends to carry out research and development," and referenced incorrect dates of the RFE and the Petitioner's response. Without providing an analysis of the evidence in support of the other claimed criteria or comparable evidence in the record, the Director concluded that the Petitioner had not established eligibility.

On appeal, the Petitioner alleges numerous factual and legal errors in the Director's analysis of the evidentiary criteria. He contends that the Director did not review and consider the evidence submitted in support of his claim that he meets additional criteria at 8 C.F.R. § 204.5(h)(3)(iii), (v), and (ix), or the comparable evidence he submitted and claims establishes his eligibility.

After reviewing the record in its totality, we conclude that the Director's unfavorable determination did not specifically address all the Petitioner's claims or evidence, and, in some instances, did not appear to adhere to USCIS regulations and policy guidance in explaining the reasons for denial.

An officer's written decision must fully explain the specific reasons for denying a visa petition. *See* 8 C.F.R. 103.3(a)(1)(i). Absent such an explanation, a petitioner is not provided a fair opportunity to contest the decision. *See, e.g. Matter of M-P-*, 20 I&N Dec. 786 (BIA 1994) (finding that a decision must fully explain the reasons for denying a motion to allow the respondent a meaningful opportunity to challenge the determination on appeal). Here, because the Director's decision does not provide a complete analysis and sufficient basis explaining the reasons for denial, we will withdraw the decision and remand for further review and entry of a new decision, consistent with our discussion below.

A. Evidentiary Criteria

1. Nationally or Internationally Recognized Awards or Prizes.

This criterion contains several evidentiary elements, all of which must be met to satisfy the regulation. According to the plain language of the regulation the evidence must establish: (1) the foreign national is the recipient of the prizes or the awards; (2) those accolades are nationally or internationally recognized; and (3) each prize or award is one for excellence in the field of endeavor. 6 *USCIS Policy Manual* F.2(B)(1), <https://www.uscis.gov/policymanual/HTML/PolicyManual.html>. Appropriate lines of inquiry under this criterion include the number of awardees, the criteria by which awardees are selected, the selection process itself, the entity that granted the award, and evidence that addresses the reputation of the award within the field. *Id.*

The Director acknowledged that the Petitioner had received multiple awards, including from sports training institutions. She concluded that some of the awards did not include sufficient evidence to ascertain whether they were nationally or internationally recognized for excellence in the field. She also concluded that other awards “reflect institutional recognition for excellence [but] do not reflect national or international recognition for excellence in the field.”

With the initial filing and in response to the RFE, the Petitioner requested that the Director consider comparable evidence in lieu of the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(i), as permitted by 8 C.F.R. § 204.5(h)(4). Specifically, the Petitioner noted that, “[d]ue to his extraordinary coaching abilities [his] athletes have received significant national and international awards in the field of speed skating under his tutelage, including gold medals at world championships.” He provided a list of the achievements of several of the athletes he trained, as well as supporting documentation, including letters from the athletes attributing their award-winning success to the Petitioner’s coaching abilities.

The regulation at 8 C.F.R. § 204.5(h)(4) allows petitioners to submit comparable evidence to establish eligibility if it is determined that the evidentiary criteria described in the regulations do not readily apply to the person’s occupation. 6 *USCIS Policy Manual*, *supra*. Despite the Petitioner’s request and submission of evidence, the Director did not analyze whether the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i) is readily applicable to the Petitioner’s occupation, or whether the evidence submitted is comparable.

The Director did not include a full analysis of the evidence submitted under this criterion, including whether comparable evidence could be accepted and examined. On remand the Director should re-evaluate the previously submitted evidence and make a new determination as to whether the Petitioner demonstrated his receipt of nationally or internationally recognized awards. If necessary, the Director should also issue a new RFE in accordance with 8 C.F.R. § 103.2(b)(8), allowing the Petitioner an opportunity to respond.

2. Published material about the individual.

The regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires “published 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.”

This criterion requires evidence showing published material about the individual and their work in the field of extraordinary ability. In addition, that material must include basic information such as its title, date and author, and must have been published in professional or major trade publications or other major media.

The Petitioner submitted a large volume of evidence in support of this criterion with the initial filing and in response to the RFE. This includes copies of articles about him and evidence about the various publications. However, the Director did not discuss or analyze any of the Petitioner’s evidence in either the RFE or the decision. On remand the Director should re-evaluate the previously submitted evidence and make a new determination as to whether the Petitioner demonstrated his eligibility under this criterion. If necessary, the Director should also issue a new RFE in accordance with 8 C.F.R. § 103.2(b)(8), allowing the Petitioner an opportunity to respond.

3. Evidence of original contributions of major significance.

The regulation at 8 C.F.R. § 204.5(h)(3)(v) calls for “evidence of the alien’s original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.”

In order to satisfy this criterion, a petitioner must establish that not only have they made original contributions, but that they have been of major significance in the field. *See 6 USCIS Policy Manual, supra*. For example, a petitioner may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field.

Although the Petitioner submitted evidence in support of this criterion, including comparable evidence pursuant to 8 C.F.R. § 204.5(h)(4), the Director did not discuss or analyze any of the evidence in either the RFE or the decision. As noted above, petitioners may submit comparable evidence to establish eligibility if it is determined that the evidentiary criteria described in the regulations do not readily apply to the person’s occupation. For example, “a person who is an Olympic coach whose athlete wins an Olympic medal while under the person’s principal tutelage would likely constitute evidence comparable to that in 8 C.F.R. § 204.5(h)(3)(v).” *6 USCIS Policy Manual* at F.2(B)(1). On remand the Director should re-evaluate the previously submitted evidence and make a new determination as to whether the Petitioner demonstrated his eligibility under this criterion. If necessary, the Director should also issue a new RFE in accordance with 8 C.F.R. § 103.2(b)(8), allowing the Petitioner an opportunity to respond.

4. Performing in a leading or critical role.

The regulation at 8 C.F.R. § 204.5(h)(3)(viii) requires “evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.”

To qualify under this criterion, a petitioner must show that they played a leading or critical role for an organization or establishment, and that that organization or establishment has a distinguished

reputation. When evaluating whether a role is leading, we look at whether the evidence establishes that the person is or was a leader within the organization, or a department or division thereof. A title, with appropriate matching duties, can help to establish that a role is or was leading. For a critical role, we look at whether the evidence establishes that the person 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 of the organization or establishment. *See 6 USCIS Policy Manual, supra.*

To support that an organization has a distinguished reputation, the relative size or longevity of an organization is considered together with other relevant information, such as the scale of its customer base or relevant media coverage. "Merriam-Webster's online dictionary defines 'distinguished' as 'marked by eminence, distinction, or excellence' or 'befitting an eminent person.'" *Id.*

The Director acknowledged some of the Petitioner's relevant evidence submitted in support of this criterion. She concluded, "The evidence only provides general information and does not contain information about any awards, recognition, or achievements garnered by the organization or establishment." However, it is difficult to discern what specific evidence the Director ultimately considered in her evaluation of this criterion, because the stated reason for denial contains no references to the specific claims and supporting documentation the Petitioner provided. Further, the stated reason for denial (lacking evidence of an organization's awards, recognition, or achievements) is not supported by law or policy.

Here, the Director offered an inadequate explanation as to why she found the Petitioner's evidence to be lacking in probative value. While the Director is not required to provide a detailed discussion of every piece of evidence the Petitioner submitted, the decision here was too general to convey that it was based on a reasoned consideration of all relevant evidence in the record related to this criterion and did not adequately explain the specific reasons for denial under this criterion. On remand the Director should re-evaluate the previously submitted evidence and make a new determination as to whether the Petitioner demonstrated his eligibility under this criterion. If necessary, the Director should also issue a new RFE in accordance with 8 C.F.R. § 103.2(b)(8), allowing the Petitioner an opportunity to respond.

5. Commanding a high salary or other remuneration.

The regulation at 8 C.F.R. § 204.5(h)(3)(ix) requires "evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field."

To establish eligibility under the criterion at 8 C.F.R. § 204.5(h)(3)(ix), a petitioner must show that they have commanded a high salary, or other significantly high remuneration for services, in relation to others in the field. Evidence relevant to demonstrating an individual's high salary may include comparative wage or remuneration data for the person's field, such as geographical or position-appropriate compensation surveys. *See generally, 6 USCIS Policy Manual F.2(B)(1), supra.*

The Petitioner submitted relevant evidence in support of this criterion with the initial filing and in response to the RFE. This includes evidence of his salary over a period of more than five years, as well as data from compensation surveys. However, the Director did not discuss or analyze any of the Petitioner's evidence in either the RFE or the decision. On remand the Director should re-evaluate the previously submitted evidence and make a new determination as to whether the Petitioner demonstrated his eligibility under this criterion. If necessary, the Director should also issue a new RFE in accordance with 8 C.F.R. § 103.2(b)(8), allowing the Petitioner an opportunity to respond.

Although we conduct de novo review, we conclude that a remand is warranted in this case because the Director's decision is insufficient for review. As stated, the analysis does not reflect the Director's consideration of the Petitioner's claims and evidence with respect to all of the claimed criteria. Because the Director's decision does not address the evidence submitted with the petition or in response to the RFE with respect to the criteria at 8 C.F.R. 204.5(h)(3)(i), (iii), (v), (viii) and (ix), we will remand the matter.

On remand, the Director should re-evaluate the evidence submitted in support of the petition to determine whether the Petitioner satisfied the plain language of at least three criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x), and to issue a new decision. The Director should also review the Petitioner's appellate brief, which further discusses the previously submitted evidence provided in support of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3) and argues comparable evidence.

If the Director determines that the Petitioner satisfied at least three criteria at 8 C.F.R. § 204.5(h)(3), the new decision should then conduct a final merits determination and evaluate, based on the totality of the evidence in the record, whether he has demonstrated, by a preponderance of the evidence, his sustained national or international acclaim, that he is one of the small percentage at the very top of the field of endeavor, and that his achievements have been recognized in the field through extensive documentation.

III. CONCLUSION

The Director did not fully consider and analyze evidence in the record to determine the Petitioner's eligibility as an alien of extraordinary ability. As such, we will remand the matter for further consideration of the record, including claims and evidence submitted on appeal, and entry of a new decision.

ORDER: The Director's decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.