

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 09 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

WANDER CORREA DA COSTA
BRAGA; MAGALI ABATE,

Plaintiffs - Appellants,

v.

CHRISTINA POULOS, Director of the
California Service Center of United States
Citizenship and Immigration Services
EMILIO GONZALEZ, Director of the
USCIS; UNITED STATES CITIZENSHIP
AND IMMIGRATION SERVICES;
ROBERT P. WIEMANN Director
Administrative Appeals Office;
MICHAEL CHERTOFF Secretary, United
States Department of Homeland Security,

Defendants - Appellees.

No. 07-56379

D.C. No. CV-06-05105-SJO

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
S. James Otero, District Judge, Presiding

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

Submitted December 9, 2008**
Pasadena, California

Before: PREGERSON, D.W. NELSON and THOMPSON, Circuit Judges.

Wander Correa Da Costa Braga (“Braga”) appeals the district court’s summary judgment in favor of the United States Citizenship and Immigration Services (“USCIS”). The USCIS denied Braga’s visa petition seeking classification as an alien with extraordinary ability as a Brazilian Jiu-Jitsu athlete and instructor. Braga challenges the underlying agency decision as arbitrary, capricious, and an abuse of discretion. Because the parties are familiar with the facts and procedural history we do not include them here, except as necessary to explain our disposition. We have jurisdiction under 28 U.S.C. § 1291 and we affirm.

The agency found that Braga did not qualify as an alien with extraordinary ability under 8 U.S.C. § 1153(b)(1)(A) because he failed to establish that he had either: (1) received a major, internationally recognized award, or (2) met three of the ten qualifying criteria set forth in the regulations. 8 C.F.R. § 204.5(h)(3). The district court agreed and concluded that the agency’s findings were supported by substantial evidence in the record.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Braga only appeals the first part of the district court's decision. He argues that his silver medal at the 2003 Pan-American Jiu-Jitsu Championship qualifies as a major, internationally recognized award within the meaning of 8 C.F.R. § 204.5(h)(3).

Braga introduced ample evidence that he received this award, but he failed to introduce any evidence of the award's- or the tournament's- significance. Braga asserts that this is a "major, internationally recognized award" within his field, but absent supporting evidence in the record, these bare assertions do not satisfy Braga's burden of proof. 8 U.S.C. § 1153(b)(1)(A).

The judgment of the district court is **AFFIRMED**.