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U.S. Department of Justice
Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
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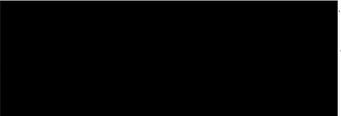
Public Copy

File: EAC 99 087 51856 Office: Vermont Service Center Date: 06 SEP 2001

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

Petition: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(1)(A)

IN BEHALF OF PETITIONER:



Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann
Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

We note that the present attorney of record did not enter this proceeding until after the submission of the appellate brief. The phrase "prior counsel" shall refer to Olga Bychok, who represented the petitioner through and including the filing of the appeal brief.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(1)(A), as an alien of extraordinary ability in athletics. The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

Section 203(b) of the Act states, in pertinent part, that:

(1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with Extraordinary Ability. -- An alien is described in this subparagraph 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 to the United States will substantially benefit prospectively the United States.

As used in this section, the term "extraordinary ability" means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. 204.5(h)(2). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the Service regulation at 8 C.F.R. 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that he has sustained national or international acclaim at the very top level.

The petitioner states "for a very long period of time I have been one of the best boxers and then a kickboxer for the Republic of Georgia." In denying the petition, the director stated that the petitioner has established "regional acclaim as a boxer from 1987 until 1992" but not sustained national or international acclaim. The director added that the petitioner has not demonstrated "the significance of the competitions and prizes that are [documented] in the record." Because the appeal and the original submission both discuss much of the same evidence, we consider all of these factors together, below.

The regulation at 8 C.F.R. 204.5(h) (3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, international recognized award). Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. The petitioner has submitted evidence which, he claims, meets the following criteria.

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

The petitioner claims the following accomplishments:

[I]n 1984 I became a **Champion** and won the first prize among young boxers in the Republic of Georgia.

In 1985 I became a prizewinner [in an] international championship and won a **Bronze Medal**. In 1986-87 I participated in different boxing Championships not only in Georgia but also in other republics of the former USSR. Thus, in 1987 I became a **Champion** of the Military Forces of the USSR. . . .

In 1987 I became a member of the International Boxing Team of the USSR. . . .

From 1988 till 1991 I have held a title of **Champion** of the Republic of Georgia in boxing. . . .

In 1989-1990 I became a **Champion** of the USSR. In 1989 I participated in [an] international tournament in Turkey where I was awarded a prize for the **Best Boxer**. . . .

Starting in 1992 I began to exercise in kickboxing. In 1993, 1994, 1995 for three consecutive times I became a **Champion** of the Republic of Georgia in kickboxing. . . .

[The] Kickboxing 10th World Championship (full contact and low-kick) took place in the city of Kiev, Ukraine in 1995. The

championship was organized by the international kickboxing organization WAKO. During that tournament I . . . became a Silver prizewinner. . . .

In 1996 in the city of Moscow, Russia, I became a **World Champion** in kickboxing. Unfortunately I am not able to present evidence of my achievement because the prize is at my house in Georgia. There is a war in Georgia now and there are no means to obtain all my prizes from the city where I used to live.

The petitioner does not explain how the war in Georgia would prevent him from obtaining confirmation of his claimed awards from the awarding entities themselves, which would presumably maintain records of past winners of major tournaments. Moscow, where the 1996 championship tournament was held, would not be directly affected by a war in Georgia.

The petitioner submits four certificates to establish his prizes. Three similar-looking certificates from an unidentified entity state that the petitioner won second place "in the international boxing tournament" in 1989, first place "in the USSR boxing tournament," and first place "in the Caucasus Republic boxing tournament" in 1995, all in the 57 kilogram weight class.¹

The fourth certificate is from the "KICKBOXING 10-th WORLD CHAMPIONSHIP FULL-CONTACT AND LOW-KICK," held in Ukraine in November 1995.² The certificate shows the petitioner's name handwritten into a blank space above the phrase "is awarded rank of the SILVER PRIZE WINNER."

Gocha Javakhia, president of the Thaiboxing & Kickboxing Georgian Federation³ states that the petitioner "took prise place" [sic] at the 1995 World Championship, and first place in the 1996 "F.I.S. World Championship." Mr. Javakhia adds that the petitioner "is Georgian three times champion and the winner of many international tournaments." In a later statement, Mr. Javakhia repeats many of these assertions.

Louis Neglia of Martial Arts Karate Academy, Brooklyn, New York, states that the petitioner "has achieved international recognition as one of the world['s] premier fighters. In 1993, 1994, and 1995 he became a champion of Georgia in kickboxing. His experience and

¹Fifty-seven kilograms is 125.4 pounds, which would place the petitioner in the featherweight division.

²Although the tournament was held in Ukraine, the original certificate is printed in English.

³The petitioner refers to this organization by several variant names; we have used the name as it appears on the federation's own letterhead.

sports achievements made him the best kickboxer of the country." A flier in the record, promoting an upcoming fight featuring the petitioner, indicates that Mr. Neglia is one of the fight's promoters.

The record indicates that the petitioner ceased boxing in 1992, in order to pursue the distinct sport of kickboxing. Because section 203(b)(1)(A)(ii) requires that the alien must continue to work in the area of extraordinary ability, the evidence pertaining to the petitioner's now-abandoned boxing career carries minimal weight.

In response to a request for further evidence, the petitioner has submitted five original certificates, relating to his various Georgian championship titles. All of the certificates were created using identical "form" certificates, displaying the Soviet hammer and sickle and stylized illustrations of a broad variety of sports. The only printed words on the certificates are a Russian motto which translates as "workers of the world, unite" and the word "ГПАМООА," translated in the record variously as "diploma" and "muniment." All the other information on the certificates - the date, the petitioner's name, the name of the event and so on - has been added with a typewriter and a ballpoint pen. No official of any prize-giving body in Georgia has affirmed the use of pre-printed "all-purpose" certificates (bearing obsolete Soviet insignia) in relation to what the petitioner claims to be that country's most important boxing and kickboxing competitions.⁴

In denying the petition, the director noted that the petitioner has not established the significance of these prizes. The inclusion of the words "national" or "international" in a tournament's title does not inherently establish national or international recognition. On appeal, prior counsel argues that the petitioner is the "Absolute Champion of the Republic of Georgia and USSR in boxing and kickboxing" but offers no new evidence from any competent body to support this claim.

In a letter submitted on appeal, K. Nachkhebia, director of the Sportcomita of Rustavi, Georgia, states that the petitioner "is the World Kickboxing and boxing Champion, he is the Champion of the International Tournaments. . . . [The petitioner] was named the best sportsman of the Republic of Georgia in 1995 and 1996." This official adds that the petitioner "took second place in the Kickboxing championship of the USA."

⁴Apart from the typed and handwritten additions, these five certificates appear to be identical. All five certificates, said to have been issued over several years, share common printing flaws that are identical both in location and in appearance, which is consistent with all of the certificates having been part of the same print run or at least prepared from the same plates.

The petitioner has submitted no corroborating evidence from any U.S. official with standing to attest to the petitioner's participation in U.S. championships. (The petitioner's promoter is not such an official). The director of the Rustavi Sportcomita does not have direct standing to attest (without further proof) to the petitioner's standing in athletic competitions outside of Rustavi.

Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

A 1995 certificate from the National Boxing Federation of the Republic of Georgia states that the petitioner "is an INTERNATIONAL CLASS MASTER AT SPORT IN BOXING." The petitioner claims membership in the Boxing Society of the USSR but the record offers no support for this claim. The petitioner is also a member of the Thaiboxing & Kickboxing Georgian Federation. The petitioner has offered no documentation to establish the membership requirements for any of these organizations.

On appeal, prior counsel notes "[t]he petitioner is a member of [the] Boxing Society of the Republic of Georgia and the former USSR. The membership in those societies was based on outstanding results in sports." The record, however, contains no evidence to support this claim.

Other documents in the record amount, essentially, to identification documents, showing that the petitioner is registered with the authorities having jurisdiction over sporting events. Such registration is not tantamount to membership in an exclusive organization.

Published materials 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.

The initial submission included a copy of an article from Russian Advertisement, a translation of which states in part: "Two Georgian Champions - [the petitioner] and Vaso Tsakadze will fight for a Champion Title: the first one is in International Championship, and the second one is in Intercontinental Championship." The then-upcoming fight was set to take place at a casino in Atlantic City. Although the newspaper is printed in Russian, it is a U.S. publication; the newspaper's telephone number has a New York area code. The paper appears to be a local publication for the Russian immigrant community in the New York area, rather than a major national publication.

The petitioner has subsequently submitted a copy of an article from Lego, a Georgian-language publication of unspecified circulation. The petitioner has not submitted a complete translation of the article, instead providing "excerpts" indicating that the petitioner coached a team which "won the first place in team competition" at the International Kick Boxing Tournament in 1997.

The petitioner has also submitted articles from local, English-language newspapers, published in February 1999 and July 1999 after the petition's filing date. These articles did not exist when the petition was filed in January 1999, and they do not derive from major national media.

On appeal, prior counsel asserts "[t]here are numerous publications regarding [the petitioner's] achievements in sports in media of the republic of Georgia." The record, however, contains only one Georgian publication, which (as discussed above) concerns a team which the petitioner coached rather than the petitioner's own abilities or acclaim as a kickboxer.

The record does not contain any persuasive evidence that the petitioner has been the subject of sustained major media coverage.

Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.

The petitioner states "as a vice president of the Kickboxing and Thaiboxing Federation I often participated as a Sport Judge," but the record contains no evidence to support this claim. Prior counsel repeats this claim on appeal but offers no supporting evidence.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

The petitioner states that he is the vice president of the Thaiboxing & Kickboxing Georgian Federation. A letter from Gocha Javakhia, the president of the federation to a third party refers to the petitioner as the vice president, although a separate letter from Mr. Javakhia lists several of the petitioner's accomplishments but does not identify him as the vice president.

Certainly the vice presidency constitutes a leading role in an organization, but the petitioner has not demonstrated that the federation has a distinguished reputation. Attestations by the federation's own officials do not constitute a reputation.

Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.

The initial petition offered no information regarding the petitioner's remuneration. On appeal, prior counsel states "[a]ccording to the information provided by Thaiboxing & Kickboxing Federation of the Republic of Georgia [the petitioner] was one of the most highly paid . . . boxers and kickboxers of the Republic of Georgia." This assertion, like many others in the record, is uncorroborated.

The record contains evidence that the petitioner was a successful boxer and kickboxer in the republic of Georgia, but the level of this success is not entirely clear; we cannot conclude from the available evidence that the petitioner had earned a truly national reputation as one of Georgia's top fighters. Since his arrival in the United States, the petitioner has remained active in kickboxing but the record establishes only local media coverage; the record does not establish that the petitioner has become one of the most successful or best-known kickboxers in the United States, which he must be if his acclaim can be said to be sustained.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim, is one of the small percentage who has risen to the very top of the field of endeavor, and that the alien's entry into the United States will substantially benefit prospectively the United States.

Review of the record, however, does not establish that the petitioner has distinguished himself as a kickboxer to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of his field. The evidence indicates that the petitioner has enjoyed success as a boxer and kickboxer, but is not persuasive that the petitioner's achievements have set him, and continue to set him significantly above almost all others in his field at a national or international level. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.