

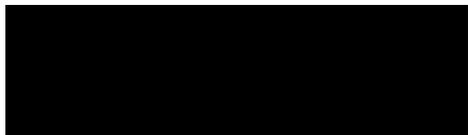


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U.S. Department of Justice
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



File: WAC 01 052 51933

Office: California Service Center

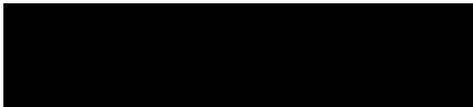
Date: AUG 27 2002

IN RE: Petitioner:
Beneficiary:



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:



Public Copy

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, Director
Administrative Appeals Office

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

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 that the petitioner has earned 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). It should be reiterated, however, that the petitioner must show that he has earned sustained national or international acclaim at the very top level.

This petition, filed on January 2, 2001, seeks to classify the petitioner as an alien with extraordinary ability as a bowling trainer/director. This decision will consider whether the petitioner has established national or international acclaim as a bowler. We will also examine whether the petitioner has sustained his acclaim as a bowler through his efforts as a coach/trainer.

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). On appeal, counsel states that the petitioner's appointment to coach the Chinese National Bowling Team "is an outstanding one-time achievement." We disagree with counsel's assertion; the plain wording of the regulation clearly calls for "a major, international recognized award." While such an appointment may be indicative of a national honor in China, it does not demonstrate the receipt of an international award. The regulation permitting eligibility based on a single award must be interpreted very narrowly, with only a small handful of awards qualifying as major, internationally recognized awards. Examples of one-time awards which enjoy truly international recognition include the Nobel Prize, the Academy Award, and (most relevant for athletics) the Olympic Gold Medal. These prizes are "household names," recognized immediately even among the general public as being the highest possible honors in their respective fields. Being chosen as a coach of the Chinese National Bowling Team does not enjoy immediate international recognition on a par with the almost universally-known awards described above.

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 that, counsel 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 submits several awards from various bowling competitions held in China. In the decision denying the application, the director noted that the petitioner's awards were "local or regional in nature." While the majority of the awards appear to be regional awards from the Guangdong Province or local awards from the City of Guangzhou, a few of them do appear to demonstrate some degree of national recognition.

The petitioner submits certificates stating that he won third place as a "male individual" and third place in the "champions challenge game" at the "Chinese National Bowling Championship Competition for the 1997 Brunswick Cup." The petitioner submits additional certificates from the same event stating that he took fourth place in the "all round males group" and "male three-man group" competitions. Another certificate indicates that at the Brunswick Cup in 1999, the petitioner's team placed fourth in the "five-man group" competition.

On appeal, counsel asserts that the petitioner has won other competitions such as the All China Kodak Cup Open, China National Liwan Cup, and China National Kanghui Cup. Counsel also states: "In 1999, [the petitioner] won the outstanding performance trophy for his bowling in the 1999 Asian Bowling Games." Counsel adds that the petitioner "won an individual second place at the Macau International Bowling Tournament" in 1999. Counsel notes: "This

achievement was not mentioned in the [director's] decision." We find no error in the director's decision because the petitioner had offered no prior evidence to demonstrate his individual receipt of a second place award at the Macau tournament. The photographs provided on appeal (containing explanatory captions written by the petitioner) are of little evidentiary value. Furthermore, many of the photographs submitted with the petition were taken from a distance and the inscriptions on the pictured awards, if legible, were not fully translated into English. More persuasive would be first-hand, objective documentation from the competitions' awarding entities confirming the petitioner's receipt of the awards (such as the award certificates from the Brunswick Cup). A complete review of the record reveals no first-hand documentary evidence to confirm the petitioner's actual receipt of any of the awards mentioned in this paragraph. The assertions of counsel do not constitute evidence. Matter of Laureano, 19 I&N Dec. 1, 3 (BIA 1983); Matter of Obaigbena, 19 I&N Dec. 533, 534 (BIA 1988); Matter of Ramirez-Sanchez, 17 I&N Dec. 503, 506 (BIA 1980).

The petitioner's receipt of various awards as a competitive bowler is not the only factor to be considered in determining his eligibility under the classification sought. Nationally or internationally recognized prizes or awards won by teams or individuals coached by the petitioner can be considered as comparable evidence for this criterion under 8 C.F.R. 204.5(h)(4).

On appeal, counsel states:

In 1997 and 1998, [the petitioner] was the personal trainer and coach for Lu Hengchuan who was the Chinese National Bowling Champion in 1997 and the Bangkok International Sports Meet Champion in 1998. In 1999 [the petitioner] was the personal trainer and coach for [REDACTED] who won first place in the 1999 Chinese National Bowling Championship and second place in the National Champions Competition.

The petitioner submits a letter from [REDACTED], stating: "[The petitioner] was the tutor and coach of my bowling career... I became the 1999 China National Bowling Championship champion... I was ranked number six out of the bowling players in Asia by the Asian Bowling Association." The petitioner submits a certificate from the China Bowling Association reflecting that Zhong Jianxiong won the competition at the "Asian Bowling Championship Tournament" in April 2000. While the record would have certainly been strengthened by first-hand evidence confirming counsel's assertions regarding the awards won by Lu Hengchuan and others coached by the petitioner, we find that the evidence presented does show that at least one of the bowlers coached by the petitioner on the Guangzhou Team has earned national recognition.

On appeal, the petitioner provides an article appearing in the *South China Metropolitan*, dated April 23, 2002, reflecting that the petitioner's Guangzhou team took four gold medals in various events at the Kunming Cup National Championships. These awards came into existence subsequent to the petition's filing. See Matter of Katigbak, 14 I & N Dec. 45 (Reg. Comm. 1971), in which the Service held that aliens seeking employment-based immigrant classification