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U.S. Department of Justice  
Immigration and Naturalization Service

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Immigration and Naturalization Service

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



18 JUN 2002

File: EAC-00-275-51130

Office: Vermont Service Center

Date:

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: Self-represented

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, Vermont 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 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

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(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.

This petition seeks to classify the petitioner as an alien with extraordinary ability as a wrestler. 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 relates to 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 initially submitted articles in what appear to be Hungarian newspapers reporting the results of wrestling competitions. The petitioner did not submit certified complete translations of the articles. Instead, he submitted handwritten notes translating picture captions and parts of the text. The first article pictures the petitioner as one of the Hungarian National team Championship winners. The second article reports that the petitioner's winning match was "the day's most beautiful." The third article names the petitioner as one of the City of Kalocsa's best wrestlers. The final article asserts that the petitioner and a teammate did well in "team National Championships." Without full translations, it is difficult to determine the significance of these competitions. The petitioner also submitted evidence that he has won unspecified awards in regional competitions in the United States. In response to the director's request for additional documentation, the petitioner submitted a list of competition results certified by the Wrestling Division Manager of the Sports Club of Kalocsa. This list indicates that the petitioner won several regional competitions between 1991 and 1997. Also during that time period the petitioner's team won several team awards in second division national championships. These awards do not reflect competition against the top national experts and, as such, cannot be considered evidence to meet this criterion. In 1998 the petitioner won 4<sup>th</sup> and 5<sup>th</sup> place at two national competitions. In 1999 he won 4<sup>th</sup> and 5<sup>th</sup> place in two national competitions. Finally, in 2000 he won 6<sup>th</sup> and 5<sup>th</sup> place in two national championships.

The director concluded that absent evidence of Olympic competition, the petitioner could not demonstrate extraordinary ability as an athlete. On appeal, the petitioner argues that he was unable to compete in the Olympics previously because he was not a member of the Communist Party and that, after the end of Communist rule in Hungary, the poor economy of the nation precluded investment in sports. While an Olympic medal can qualify as a petitioner's one time achievement, we do not agree that a petitioner seeking classification as an extraordinary wrestler must demonstrate Olympic participation. A petitioner could submit evidence of awards from lesser internationally and nationally recognized competitions, which, in conjunction with evidence sufficient to meet at least two other criteria, would be sufficient for eligibility. Moreover, the regulations do not specify which of the three criteria an athlete must meet. Assuming the possibility that an athlete were able to meet three other criteria, under the regulations, he would not need to demonstrate any awards.<sup>1</sup>

Nevertheless, the petitioner has not established the significance of the national senior championships where he placed between 4<sup>th</sup> and 6<sup>th</sup>. While the record includes some media coverage of the competitions, it appears they were only covered in local papers. Even if we were to conclude that the petitioner meets this criterion, it is only one criterion.

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<sup>1</sup> It is acknowledged that it may be unlikely that a competitive athlete who has never won an award or competition would be able to submit sufficient evidence of national acclaim in three other criteria. Nevertheless, the regulations do not specifically preclude that possibility.

*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 petitioner submitted several Hungarian newspaper articles reporting the results of various wrestling competitions. While these articles mention the petitioner insofar as they report the results of his match, they are not primarily about him. Moreover, the newspapers identified by the petitioner are local city papers. As such, the petitioner has not demonstrated that the articles appeared in major, national media.

*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 record reveals that the petitioner has volunteered as a wrestling coach for a private school and a gym. Judging the work of one's students is inherent to the work of a coach. Moreover, the record does not reflect that the petitioner was selected as a coach based on his national acclaim in the United States, where he has been performing these services. Finally, the level of coaching being performed by the petitioner is not indicative of national acclaim.

*Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.*

██████████ the Head Wrestling Coach at Germantown Academy, asserts that the petitioner's training in the Greco-Roman style of wrestling will be beneficial to the academy's 50 wrestlers. While the petitioner may be contributing to this single academy, there is no evidence that he has influenced or contributed to the field of wrestling as a whole.

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

While the petitioner may have been one of the better wrestlers on his local team in Hungary and may have volunteered as a coach in the United States, the record contains no evidence either that he has played a leading or critical role for these teams or that the teams have a distinguished reputation nationally.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of the field of endeavor.

Review of the record, however, does not establish that the petitioner has distinguished himself as a wrestler 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 shows talent as a wrestler, but is not persuasive that the petitioner's achievements set

him significantly above almost all others in his field. 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.