

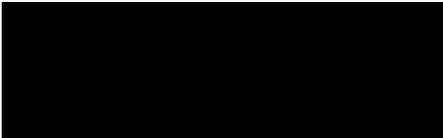


BA

U.S. Department of Justice  
Immigration and Naturalization Service

redaction data deleted to  
prevent clearly unwarranted  
invasion of personal privacy.

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



File: EAC 99 252 51842 Office: Vermont Service Center Date: MAY 01 2002

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:  
[Redacted]

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 sustained and the petition will be approved.

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.

This petition, filed on August 23, 1999, seeks to classify the petitioner as an alien with extraordinary ability as an athlete. The director's decision erroneously concluded that the petitioner filed solely as judo and sombo trainer.<sup>1</sup> The director stated: "Therefore, the issues

<sup>1</sup> According to the American Sombo Federation's website, the term "sombo" is an acronym for the Russian phrase "Samozashchita Bez Oruzhiya" or in the English language, "Self-defense Without Weapons."

addressed here only relate to a trainer of judo and sombo." While the petitioner listed "athlete of extraordinary ability" under the job title section of Part 6, the non-technical description of the job was listed as a "trainer." However, the wealth of the petitioner's supporting documentation, including Form ETA-750B, indicates that the petitioner seeks employment as a martial arts competitor and trainer, specializing in Judo and Sombo.<sup>2</sup>

Letters from [REDACTED] Team Leader of the United States Judo Delegation for the 2000 Summer Olympic Games, and President Smirnov of the Russian Olympic Committee confirm the petitioner's candidacy for the 2000 Olympics, receipt of a gold medal at the U.S.A. Judo Team Nationals (1998), and second place finish at the Ukraine National Judo Championship (1997). [REDACTED] states that the petitioner will represent the United States at national and international competitions and coach future American athletes. The petitioner, age thirty-one at the time the petition was filed, has submitted sufficient evidence to demonstrate that he participated in national judo competitions within a year of filing and that he intends to remain active as a judo competitor in the United States. Therefore, the petitioner in this case seeks employment not only as a trainer/coach, but also as a competitive athlete. We also find that the petitioner seeks to "continue work in the area of expertise" pursuant to 8 C.F.R. 204.5(h). This decision will consider whether the petitioner has established national or international acclaim as a judo competitor and 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). 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.

In a memorandum submitted in support of the petition, counsel makes reference to several of the petitioner's "major" international judo competition awards from the early 1990's. 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. Absent compelling evidence, we cannot find that the petitioner's victories at the Pan-American Games and various other international tournaments enjoy immediate international recognition on a par with the almost universally-known awards described above. While placing first at these judo tournaments is impressive, they do not enjoy the same reputation held by the Summer Olympics, which is universally acknowledged as the ultimate in international athletic competition. The single major award criterion is meant to be even more restrictive than the ten lesser criteria outlined below. The

---

<sup>2</sup> The submission of Form ETA-750B is not required under 8 C.F.R. 204.5(h).

petitioner's first place awards from international judo competitions will be properly addressed below as lesser internationally recognized prizes or awards.

The petitioner has submitted evidence which, 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.*

As stated above, the petitioner placed first at several international competitions including the Pan-American Games (1998), Moscow International Tournament (1993), and Paris International Tournament (1992). In addition to placing in the top three at various other international competitions throughout the 1990's, the petitioner won first place at the U.S. National Championships (1996 and 1998), first place at the Ukrainian Championships (1990 and 1991), first and third place at the Moscow Championships (1994 and 1995), and first place at the U.S.S.R. Championships (1991). These awards have been verified by the Russian Olympic Committee, Ukrainian Judo Federation, and United States Judo (the sport's governing body in the United States). The petitioner has amply satisfied this criterion as an athlete.

*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.*

The petitioner submits two membership cards from United States Judo and a membership card from the United States Sombo Association. The petitioner offers no evidence that his membership in these associations required outstanding achievement as judged by nationally recognized judo experts. Further, the petitioner has failed to provide any information regarding the associations' specific membership requirements.

In order to demonstrate that membership in an association meets this criterion, the petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, a fixed minimum of education or experience, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion because participation, employment, education, experience, test scores and recommendations do not constitute outstanding achievements. In addition, memberships in an association that judges membership applications at the local chapter level do not qualify. It is clear from the regulatory language that members must be selected at the national or international, rather than the local, level. Finally, the overall prestige of a given association cannot satisfy the criterion, because the key issue is membership requirements rather than the association's overall reputation.

The petitioner has submitted no evidence that membership in United States Judo and the United States Sombo Association require outstanding achievements of their members in the same

manner as highly exclusive associations such as (for example) the U.S. National Academy of Sciences.

*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 submits copies of several articles with incomplete translations. By regulation, any document containing a foreign language submitted to the Service shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. 8 C.F.R. 103.2(b)(3). Unattested summary translations of various articles cannot suffice to satisfy this criterion. Without complete translations, it cannot be determined that the petitioner is the main subject of the articles, or that he was featured because of his achievements as an extraordinary athlete.

Even if we were to accept the partially translated articles, the plain wording of the regulation requires the petitioner to submit "published materials about the alien," and articles that barely even mention the alien cannot satisfy this criterion. The petitioner's involvement in a judo event that, as a whole, merits media coverage does not satisfy this criterion. The articles submitted only briefly mention the petitioner in a single sentence or post his name amongst several other competitors under tournament results. Because the statute demands national or international acclaim, the petitioner cannot satisfy this criterion unless he has been the subject of coverage in major national or international publications. Local newspapers and regional magazines with limited circulation do not constitute major media in this regard. The petitioner has not demonstrated sustained attention from major national media such as magazines like Sports Illustrated or its foreign equivalent. This criterion, like all criteria, is intended to separate the petitioner from the vast majority of his colleagues and is thus meant to be interpreted restrictively.

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

In order to establish major significance, the petitioner must show that his contribution has demonstrably influenced the sport of judo at a national or international level.

██████████ Team Leader for the United States Judo delegation at the ██████████ Summer Olympics, states that the petitioner won top awards at judo competitions that are unequivocally accepted as forums for the very best athletes. He argues that the petitioner's awards "constitute an athletic contribution of major significance." ██████████ Athlete Representative to the Executive Committee for United States Judo and U.S. Olympic Silver Medallist in ██████████ and ██████████ U.S. Olympic Bronze Medallist in ██████████ submit letters very similar in content to the letter written by ██████████. The three letters contain several identical passages,

including the same irregular punctuation. For example, each of their letters contains the following paragraph:

Listed above are just some of [the petitioner's] achievements. In my professional opinion each of the above mentioned awards constitute an athletic contribution of major significance. These achievements undoubtedly place [the petitioner] among the very top professional athletes in the world. Indeed, I can think of a few athletes who better meet the criteria described above. As he is an exceptionally gifted athlete in martial arts generally and one of the few top athletes in the field of Judo and Martial Arts in the world, I believe that it is surely in the best interests of the United States to benefit from [the petitioner's] extraordinary ability in martial arts so that he could both represent United States in national and international competitions and coached [sic] future American athletes for the world leadership in this field.

The petitioner's awards have been addressed under a previous criterion that the petitioner has already met. The ten criteria are intended to be separate and distinct from one another. Therefore, an award cannot fulfill this second criterion without clear evidence that the award was given for a specific contribution of major significance, rather than for recognition of a judo tournament victory.

While the above witnesses, in signing their letters, are clearly supportive of the petitioner, it appears highly unlikely that they themselves independently chose the wording of their letters. Given the similarity among the letters and the use of identical language, it strongly appears that portions of these letters were written by an unidentified party. It is acknowledged that these individuals have lent their support to this petition, but it remains that they did not choose the wording of their letters and therefore their specific assertions regarding the petitioner's contributions carry diminished weight.

More persuasive is the letter from [redacted] four-time Olympic Champion and 1996 U.S. Olympic Coach, stating that the petitioner "has coached the world's best athletes in order to prepare them for Olympic games and for other nationally and internationally recognized competitions." [redacted] details the petitioner's coaching history at the Youth International Tournament Training Camp in Ft. Lauderdale, Florida; Pocono Training Camp for professional athletes in Pennsylvania; and Judo Training Camp for professionals and amateurs in Monticello, New York. [redacted] states that the petitioner "was specifically invited to these camps because he possesses a rare fighting technique commonly used by the world's best athletes from the former Soviet Union." He adds that the petitioner's training helped to "ensure that American athletes mastered these techniques before facing their foreign counterparts."

[redacted] also credits the petitioner with training Vadim Bogiev, Olympic Gold Medallist in Atlanta (1996), and [redacted] Pan American Champion and member of the U.S. National Team. Vadim Bogiev states:

Over the last Olympic cycle, [the petitioner] had constantly been at my side through all periodical training, rendering his assistance by conducting control fights and solving tactical tasks. His work and many years of experience have made a tremendous contribution to my victory and becoming a gold medalist at the Olympic games in Atlanta, U.S.A.

[REDACTED] states that he met the petitioner six years ago at the Olympic Sports Center in Brooklyn, New York, and that the petitioner has served as his "coach and training partner ever since." He states:

The clinics and training that I had with [the petitioner] greatly improved my ability to compete and achieve great results in competitions. I am greatly indebted to him for the input and experience he shared with me, especially when I was preparing for the Pan-American Games. He remains a major authority in the field of Sombo and Judo.

In determining whether the petitioner has made a significant contribution to the sport of judo, we must consider the level at which the petitioner acts as a coach. A coach of athletes who compete regularly at the national level has a credible claim; a coach of novices does not. The above witness letters demonstrate that the petitioner's ability as a trainer has significantly impacted the performance of top judo athletes. While ability as an athlete is not, in and of itself, evidence of ability as a coach, the petitioner has submitted evidence that other top judo coaches and competitors have utilized his judo techniques and benefited from his training. The petitioner has submitted sufficient evidence to satisfy this criterion.

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

In order to establish that the alien performed a leading or critical role for an organization or establishment with a distinguished reputation, a petitioner must establish the nature of the alien's role within the entire organization or establishment and the reputation of the organization or establishment. The petitioner submits a letter from the Children's Sport Federation of Russia, but it contains little information regarding the petitioner's specific role or the reputation of the team that he coached. Counsel refers to the letter from [REDACTED] stating that the petitioner has coached at the Youth International Tournament Training Camp in Ft. Lauderdale, Florida; Pocono Training Camp for professional athletes in Pennsylvania; Lake Placid USOTC training camp in New York; and the Judo Training Camp for professionals and amateurs in Monticello, New York. The burden is on the petitioner to demonstrate that these camps have a distinguished reputation amongst the numerous other judo training facilities throughout the United States. The record contains no information regarding the reputation of these camps or the petitioner's role in relation to other coaches (if any). We note that the record contains no evidence to demonstrate that the petitioner ever served as head coach or exercised substantial control at any of the above-mentioned judo training facilities.

In sum, the evidence submitted is insufficient to demonstrate that the petitioner has performed a leading role within a distinguished organization or that his role has attracted sustained national attention. Thus, the petitioner has failed to satisfy this criterion.

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

The petitioner submits a letter from [REDACTED] General Secretary of the Judo Federation of Russia. His letter states:

This is to confirm that [the petitioner] is a member of the Russian and Ukrainian Judo National Teams. His annual salary in 1999 constituted \$75,000. [The petitioner's] salary is the top pay category as [the petitioner] is the Olympic rate athlete. [The petitioner] is one of the five top paid Judo athletes of the Russian Federation. In 1997 [the petitioner's] salary constituted \$62,000, in 1998- \$70,000.

The evidence submitted is sufficient to satisfy this criterion.

In this case, the petitioner has satisfied three of the lesser criteria as a competitor and trainer of judo. The petitioner has produced evidence from top national judo coaches, athletes, and officials from both the United States and the former Soviet Union. The record contains credible evidence of the petitioner's sustained national acclaim as a competitive athlete and a judo trainer. Pursuant to the statute and regulations as they are currently constituted, the petitioner qualifies for the classification sought.

In review, while not all of the petitioner's evidence carries the weight imputed to it by counsel, the totality of the evidence establishes an overall pattern of sustained acclaim and extraordinary ability. The petitioner has established that he has been recognized as an alien of extraordinary ability who has achieved sustained national acclaim and whose achievements have been recognized in his field of expertise. The petitioner has also established that he seeks to continue working in the same field in the United States and that his entry into the United States will substantially benefit prospectively the United States. Therefore, the petitioner has established eligibility for the benefits sought under section 203 of the Act.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has sustained that burden.

**ORDER:** The decision of the director is withdrawn. The appeal is sustained and the petition is approved.