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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE  
425 Eye Street N.W.  
BCIS, AAO, 20 Mass., 3/F  
Washington, D.C. 20536

[Redacted]

AUG 18 2003

File: [Redacted] Office: California Service Center

Date:

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 Bureau of Citizenship and Immigration Services (Bureau) 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.

  
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 Administrative Appeals Office on appeal. The appeal will be dismissed.

It is noted that the petitioner was initially represented by attorney [REDACTED] will be referred to herein as the petitioner's "former counsel," or "previous counsel." References to "counsel" will refer to Donna Fujioka, the petitioner's current attorney of record, who submitted a Form G-28, Notice of Entry of Appearance as Attorney or Representative, on appeal.

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 as a coach. The petition was originally approved on October 29, 1997, but at the time of the petitioner's interview for adjustment of status, the examiner noted several deficiencies in the record. On October 24, 2002, a notice of intent to revoke was issued to the petitioner. The director found the petitioner's response had failed to overcome the notice of intent to revoke and revoked the petition, stating that the petitioner had not established that he qualifies as an alien of extraordinary ability in his field of endeavor, coaching.

On March 6, 2003, counsel filed an appeal, challenging the Bureau's revocation of the petition. On appeal, counsel does not refute any of the Bureau's findings as to the criteria for exceptional ability. Instead, counsel's appeal very narrowly focuses on the director's finding that the petitioner had failed to show an intent to continue working as a wrestling coach in the United States. Counsel states:

Nothing in the record suggests that [the petitioner] plans to do anything other than work in the field of wrestling. He has submitted a business plan for the wrestling studio he plans to open and has documented that he is raising capital for this end by working as a wrestling coach in Russia, where he is paid higher than he would be in the U.S.

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.

The regulation at 8 C.F.R. § 204.5(h)(5) states, in pertinent part:

...the petition must be accompanied by clear evidence that the alien is coming to the United States to continue work in the area of expertise. Such evidence may include letter(s) from prospective employer(s), evidence of prearranged commitments such as contracts, or a statement from the beneficiary detailing plans on how he or she intends to continue his or her work in 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 has 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 September 29, 1997, seeks to classify the petitioner as an alien with extraordinary ability as a freestyle and Greco-Roman wrestling coach. The regulation at 8 C.F.R. 204.5(h) requires the petitioner to "continue work in the area of expertise." The petitioner intends to work as a coach in the United States. Counsel, in her response to the director's intent to revoke, argued that the relevant "field" of expertise is wrestling and that it is "not relevant to the case whether the achievements were as a 'wrestler,' 'wrestling referee,' 'wrestling coach,' or 'wrestling judge'." We are not persuaded by counsel's argument and find that being a wrestler, and coaching a wrestler, are not the same area of expertise. While a wrestler and a wrestling coach certainly both share knowledge of the sport, the two rely on very different sets of basic skills. This interpretation has been upheld in Federal Court. In *Lee v. Ziglar*, 237 F.Supp.2d 914 (N.D.Ill. 2002), the court stated:

It is reasonable to interpret continuing to work in one's 'area of extraordinary ability' as working in the same profession in which one has extraordinary ability, not necessarily in any profession in that field. For example, Lee's extraordinary ability as a baseball player does not imply that he also has extraordinary ability in all positions or professions in the baseball industry such as a manager, umpire or coach.

*Id.* at 918. The court noted a consistent history in this area. Nevertheless, recently this office has recognized that there exists a nexus between playing and coaching a given sport. To assume that every extraordinary athlete's area of expertise includes coaching, however, would be too speculative. To resolve this issue, the following balance is appropriate. In a case where an alien has clearly achieved national or international acclaim as an athlete and has sustained that acclaim in the field of coaching at a national level, we can consider the totality of the evidence as establishing an overall pattern of sustained acclaim and extraordinary ability. Specifically, in such

a case we will consider the level at which the alien acts as coach. A coach who has an established a successful history of coaching athletes who compete regularly at the national level has a credible claim; a coach of novices does not. Thus, we will examine whether the petitioner has demonstrated his extraordinary ability as a player and as a coach. If the petitioner has demonstrated the beneficiary's extraordinary ability as a wrestler, we will then consider the level at which he has successfully coached.

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). 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. It has not been shown that the awards given to the petitioner receive immediate international recognition on a par with the almost universally-known awards described above. The single major award criterion is meant to be even more restrictive than the ten lesser criteria, thus, barring the alien's receipt of a major, internationally recognized 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 as discussed below.

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

The record contains evidence of the petitioner's receipt of many awards during the time he was a competitive wrestler, including the time he spent as a member of the USSR National Wrestling Team. These awards include Soviet Junior National Champion, Champion of the National Junior Games, and Junior World Champion. We are satisfied from the evidence that the petitioner has received nationally and internationally recognized prizes as a competitor in these amateur-wrestling competitions. However, as all of the awards submitted were based on the petitioner's ability as a wrestler, they do not establish that the petitioner has sustained national or international acclaim as a coach. Although it is not clear that significant awards exist for wrestling coaches, nationally or internationally recognized prizes or awards won by teams or individuals coached by the petitioner may be considered as comparable evidence for this criterion under 8 C.F.R. § 204.5(h)(4).

Prior counsel states:

From 1993 until [the time of filing, the petitioner] is a member of the Russian Wrestling National Coaching Staff. [sic] Responsible for preparing Russian National Team freestyle and Greco-Roman wrestlers for international events such as the World Cup, World Championships, European Championships and the Olympic Games.

When speaking of the petitioner's achievements as a coach of the Russian National team, Vice President of the Wrestling Federation of Russia, states:

[The petitioner] is "one of the best wrestling coaches in Russia. During the year of coaching wrestling from 1992 to present, he took part in preparing the best wrestler in the country for major competitions. Amongst them World Champions, European Champions and Olympic games winners...."

As one of the leading coaches, he often had to travel with the team to major international tournaments of the World Championship, European Championship and other [sic] competitions.

While [redacted] states that the petitioner took part in preparing the Russian team for major competitions, he does not comment on how well the team, or individuals under the tutelage of the petitioner, fared in competition.

The petitioner also asserts that he has successfully coached Alexander Karelin, a wrestler who has won numerous awards, including gold medals in the super-heavyweight division in the 1988, 1992, and 1996 Olympic games. In support of this assertion, the record contains two letters indicating that the petitioner took part in preparing [redacted] for the Olympic Games: one letter written by [redacted] Honored Coach of the USSR, and another written by [redacted]

The record contains ample evidence documenting the petitioner's membership on the Russian National Coaching staff, as well as [redacted] receipt of Olympic gold medals. However, while the letters from [redacted] would normally be considered strong evidence, they are contradicted by other evidence contained in the record. We note that although the letter written by [redacted] confirms that the petitioner has been a coach of the Russian national team beginning in 1993, he was only "responsible for the preparation of athletes in the 57 kg. [125.5 lbs.] weight class." [redacted] however, wrestled in the super-heavyweight class (286 lbs), a class for which the petitioner was not responsible. This discrepancy casts doubt on the petitioner's claim that he actually served as [redacted] coach, rather than serving as one of many coaches on the Russian National team during the time that [redacted] spent on the team. Research conducted in the preparation of this decision confirms that while the petitioner may have been a part of the coaching staff while [redacted] was on the national team, there is no indication that he had any actual involvement in [redacted] training.<sup>1</sup> It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective

<sup>1</sup> A simple Google search on [redacted] leads to a cite that purports to be [redacted] personal cite [redacted] (June 24, 2003). This cite contains an interview with both [redacted] and [redacted]. In [redacted] interview he refers to [redacted] as his "trainer" and states that although "not each, even very talented sportsmen can be a trainer... [m]y constant trainer [redacted] has such a gift... I have many such titles as 'the most titled wrestler of the planet'... [t]hese titles directly concern to [sic] Victor Kuznetsov. In his interview [redacted] speaks about training [redacted] from the time that [redacted] began wrestling, at least as far back as 1985.

This search also leads to a second site [redacted] referring the Sydney Olympics in 2000. This cite again lists Victor Kuznetsov as Alexander [redacted] coach.

evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. Matter of Ho, 19 I&N Dec. 582 (BIA 1988). In light of this seemingly contradictory evidence, we are unable to rely on the witness letters provided by [REDACTED]

In addition to coaching the National Russian team, the petitioner provides evidence of his position as Head Coach of the [REDACTED] from 1992 to 1997. The letter from [REDACTED] states that the petitioner was offered the position of Head Coach because of his "outstanding achievements in wrestling" and that the person who was to become Head Coach "had to be a World class champion before he was permitted to coach athletes who competed at the international level." This letter corroborates what we have already acknowledged; the petitioner is a recognized wrestler with achievements in national and international arenas. However, this letter fails to demonstrate that the petitioner's achievements as the coach [REDACTED] were equal to his achievements as a wrestler. The record is void any evidence to show that the team or any team members [REDACTED] won national or international awards during the petitioner's employment as Head Coach.

The petitioner also submits a letter from [REDACTED] indicating the petitioner acted as her coach, accompanied by a picture of [REDACTED]. In her letter [REDACTED]

[The petitioner] brought success into my wrestling career and he is definitely the kind of person who can help many other wrestlers get better and excel. [The petitioner] prepared me for several competitions. Due to his knowledge and efforts I was a prizur in [sic] International Tournament in Sofia in 2000. I also participated in the World Championship in 2001 and I have done very well. His amazing coaching talent helped me get the right skills to wrestle well on the Championship.

While [REDACTED] mentions that she was a "prizer," and "participated," and did "very well" in tournaments and championships, her letter does not establish that she has won national or international prizes or awards during the time coached by the petitioner. The fact that [REDACTED] has had a picture taken with [REDACTED] while impressive, does not establish that the picture was taken based on [REDACTED] achievements as a wrestler. More importantly, we note that [REDACTED] participation in these various events (including the picture with [REDACTED]) all occurred after the filing date of the petition. Therefore, even if the record established that she won national or international awards, we could not consider those awards as the competitions had not even taken place at the time of filing. A petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm.1971).

We cannot ignore the absence of national or international awards won by teams and individuals that the petitioner has coached. Further, the petitioner has not shown that he has won any awards based on his competitive wrestling from the early 1980s to the filing date of the petition. The lack of evidence raises questions as to the petitioner's sustained acclaim individually as wrestler, as well as his acclaim, sustained or otherwise, as a wrestling coach.

*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 director's notice of intent to revoke states "[t]he record contains evidence that establishes that the alien has been a member of the Soviet National Wrestling Team and Club Dinamo, Soviet National Wrestling Team. Therefore, this criterion has been met." While we agree with the director's ultimate determination that the petitioner has established eligibility for this criterion, we will discuss the evidence submitted and elaborate on the reasoning which leads to the conclusion that the petitioner's membership on a national team satisfies this criterion.

While we have consistently found that being a member of a team does not qualify as membership in an "association," we do consider the petitioner's evidence of membership on the Soviet national wrestling team as comparable evidence under 8 C.F.R. § 204.5(h)(4), because membership on this national team is the result of multi-level national competition, supervised by national experts. Thus, the petitioner's membership as a wrestler on the national team qualifies him for this criterion as a wrestler. Although his participation as a wrestler on the Russian national team does not establish that he has earned national or international acclaim as a coach, under the same logic applied above, the fact that the petitioner was selected as part of the Russian national team's coaching staff does establish his national acclaim as a coach.

Although not addressed by the director, and now rendered moot by the above determination that the petitioner meets eligibility for this criterion, we will discuss two other pieces of evidence submitted into the record that fall under this criterion. The first piece of evidence, which was submitted by prior counsel is evidence that "in 1979 [the petitioner] became an International Level Master of Sports." According to prior counsel:

A master of sports is a title granted to athletes in the Soviet sports system who have achieved status entitling them to compete at a national level. An international Level Master of Sports title goes to an athlete who is qualified to compete in the international arena. Therefore, only the best athletes, the one's [sic] who would ultimately represent the Soviet Union in the international competitions were granted this title.

While the petitioner's designation as International Level Master of Sports is not without weight, it does not establish membership in any particular organization requiring outstanding achievement of its members. Rather, it appears to be a title given to particular individuals who have made recognized achievements in their field of sport.

The second piece of evidence is a diploma issued to the petitioner in August of 1999 by the International Academy of Sciences, Education, Industry and Arts in recognition of being elected as a member of this academy. This evidence was submitted by counsel in "Tab G" of her response to the director's notice of intent to revoke, despite her claim not to have addressed the criterion based on the director's affirmative finding. Regardless, under *Matter of Katigbak, supra*, we will

not consider this diploma as evidence at it was issued well after the filing date of the petition.

Again, our findings related to the two additional pieces of evidence are of no consequence as we have already acknowledged the petitioner's eligibility for this criterion.

*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.*

In general, in order for published material to meet this criterion, it must be primarily about the petitioner and, as stated in the regulations, be printed in professional or major trade publications or other *major* media. To qualify as major media, the publication should have significant national distribution and be published in a predominant language. An alien would not earn acclaim at the national level from a local publication or from a publication in a language that most of the population cannot comprehend. Some newspapers, such as the *New York Times*, nominally serve a particular locality but would qualify as major media because of significant national distribution, unlike small local community papers.

The photo from the *Des Moines Register* with the caption [REDACTED] (left) has his hands full of Soviets' Andre F[sp]artsev in 125.5 pound bout" can hardly be construed as published material "about" the petitioner. While we do not dispute counsel's assertion that the paper is a "prize winning state newspaper of the caliber carried by many out of state libraries, we do not consider the *Des Moines Register* to be a major trade publication such that it is an internationally known newspapers like *The New York Times*. In fact, the printout of the *Register's* website, offered by counsel as evidence, states that the newspaper is a "statewide" newspaper that serves the people of the state of Iowa from "Sioux City to Burlington." The site makes no mention of its national distribution, much less international distribution.

As further evidence of published materials, the petitioner submits a summary of references to his name in the book, *The Way to Olympia*. This summary translation indicates that the petitioner's name is mentioned in three different paragraphs and that the book contains two photographs of the petitioner. By regulation, any document containing foreign language submitted to the Bureau shall be accompanied by a full English language translation that 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). Although we do not have a translation of the entire book or even a translation of the paragraphs in which the petitioner is mentioned, we note that the book is at least 126 pages long.<sup>2</sup> We can hardly consider two photographs and three minute references to the petitioner, in a book well over one hundred pages in length, to be evidence of published material about the petitioner. Similarly, the single photograph and reference to the petitioner in the book *Kuzbass Sports Glory*, as described in the summary translation, cannot be considered to be "about" the petitioner. Further, the petitioner

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<sup>2</sup> The translator indicates that one of the references to the petitioner is on page 126.

has not established that either book, originally written in Russian, is considered to be major media.

The petitioner also provides summary translations of two Russian news articles; one article is from the newspaper *Youth of Sibiria*, the other article is from the *Soviet Sibir*. Again, instead of providing a translation of the entire article, the translator gives a summary of what each article is about and then describes how the petitioner is referenced in the articles. In his summary, the translator very clearly states that the articles are about a wrestling match between the USSR and the U.S., rather than the petitioner. Given the translator's statements that the article is about a match between the USSR and the U.S., and without a translation of the articles in their entirety, we can only assume that many other wrestlers, in addition to the petitioner, were also mentioned. Thus, we are unable to find that either article is about the petitioner. Moreover, the petitioner does not submit any evidence to establish that these newspapers are national or international publications.

The plain wording of the regulation requires the petitioner to submit "published materials about the alien." As discussed above, we do not find that the articles and books submitted as evidence focus on the petitioner as the main subject or feature the petitioner's achievements in a way that may be construed as "about" the petitioner.<sup>3</sup> Further, even were we to determine that the articles are "about" the petitioner, they are "about" the petitioner as a wrestler. Finally, there is not one reference to the petitioner in the capacity of a coach in any of the publications.<sup>4</sup>

*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 specialization for which classification is sought*

Prior counsel states:

[The petitioner] is a National Level Freestyle Wrestling Judge. This qualifies [him] to judge the highest national tournaments held in Russia. For example he would be a judge at the Olympic Games national trials.

<sup>3</sup> Under the criterion for lesser nationally or internationally recognized prizes counsel submits copies of pages from books such as *Everything about Freestyle Wrestling*. Copies of pages from these books are submitted by counsel because, although they chronicle the history of wrestling and competitions from all over the world, they also demonstrate that the petitioner has won awards for wrestling. The books are basically encyclopedias that list winners' names, competitions, and prizes awarded (e.g.; first place, second place). We do not reference these books in our discussion of the current criterion because we do not feel that counsel intended to submit them as evidence to satisfy this criterion. We do mention it in this note to show that while we recognize the petitioner's name in other publications in the record, we do not consider any of these books to be "about" the petitioner, in that his name is one of hundreds listed among other winners of tournaments such as the Olympic games and World Championships.

<sup>4</sup> We note that in the background material on [redacted] wrestling submitted by prior counsel, the author of the book *Encyclopedia of American Wrestling* describes, Pavel Katsen, as having a major impact on the sport in the United States. The author states that "Katsen emigrated to the United States in 1979 and beginning two years later in 1981 to 1985, the United States "climbed from 18<sup>th</sup> to 6<sup>th</sup> in the world tournament. Clearly [redacted] was making progress on all fronts, ranging from performance to publicity. Credit was due to...coaches like Katsen..." While some coaches are clearly recognized as having an impact on the sport, the petitioner is not listed as one of them.

He has refereed numerous tournaments, both on the national and international level. On the national level he has refereed at the Russian National Championships, and has refereed international tournaments in Poland, Germany, Italy, Turkey, Czech Republic, Belarus, Bulgaria, and in other countries.

In support of prior counsel's statement that the petitioner is a National Level Freestyle Wrestling Judge, the petitioner submits two certificates issued to the petitioner from the Committee of Physical Culture and Sports by the Council of Ministers of the USSR. The certificates state that the petitioner is honored as a national level judge in wrestling. While counsel correctly points out that the Director overlooked the certificates, the certificates only show that the petitioner is qualified to be a judge at the national level. They do not establish that the petitioner has ever participated as a judge at this level.

Moreover, we find that a distinction must be made between the petitioner's duties as a referee and the duties of a judge as envisioned by this criterion. While the word "judge" is used in the petitioner's title, "National Level Freestyle Wrestling Judge," the duties of this position, as described by prior counsel, indicate duties more akin to officiating and refereeing. The job of the petitioner, while acting as a referee or officiating at a tournament, is to ensure that the match is carried out fairly and that the competitors follow the rules of the sport. The job of a judge, as envisioned in this criterion, is to evaluate the skills of one competitor versus the skills of the other competitors. The fact that someone is chosen as a judge of the skills of others indicates that the person is known for his or her own recognized skills, knowledge and accomplishments. We are not persuaded that the petitioner's participation as a referee in wrestling matches establishes qualification for this particular criterion as participation as a judge of the work of others.

Finally, we note the evidence submitted by the petitioner in response to the notice of intent to revoke; evidence pertaining to membership in the United States Wrestling Officials Association, and evidence as participation as a "mat official" in several matches, was not in existence at the time of filing.<sup>5</sup> As such, it cannot be considered as evidence to establish the petitioner's eligibility at the time of filing. *See Matter of Katigbak, supra.*

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

To establish that his work is of major significance, the petitioner must show that his contribution has demonstrably influenced his field at a national or international level. As evidence of the petitioner's original athletic contributions, prior counsel refers to the names of wrestlers that the petitioner has purportedly coached. Following the names of the wrestlers, prior counsel adds titles

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<sup>5</sup> As noted in the response to the intent to deny, counsel submitted this evidence to highlight the petitioner's continued intent to be employed as a coach. As such evidence is not specific to one criterion, we chose to discuss it with other similar evidence pertaining to the petitioner's officiating at wrestling matches. Regardless of where the evidence is discussed, it is moot as the license did not exist and the matches had not yet taken place at the time of filing.

such as "Master of Sports" and "International Level Master of Sports."

In addition to letters discussed in previous criteria, the petitioner also submits letters from W.A. Martell, USA Wrestling National Staff, Alex Ostrovskiy, USA National Judge, International Judge (Category 1), and Victorio Anastasio, past president of the Bay Area Wrestling Association. These letters detail the petitioner's career as a wrestler and a coach, and discuss the qualities he possesses as a wrestler, referee and coach.

[The petitioner] is an educated and experienced teacher of wrestling from Russia. I have seen his students perform and have had an opportunity to discuss his training methods with him. Both are of the highest professional quality.

I am a retired professor of physical education from the University of California at Berkeley. Since 1979 I have been both a chairman of the Olympic wrestling and an active coach on our assistant Olympic coach [sic] in Atlanta.

wrestling is an Olympic sport that is underdeveloped in the United States. [The petitioner] can and would be used as a technical resource for training our national team. We need his knowledge and experience.

I have known [the petitioner] as a competitor as well as a coach and referee in wrestling since 1978. His outstanding talent, practical experience, [sic] fundamental education let him become [sic] one of the top coaches. Among his famous students are famous athletes and other [sic]. As Russian National coach [the petitioner] took part in several World Championships and International Tournaments. He also were [sic] invited to serve as meet referee at Russian National championships and international tournaments...[h]is successful work was repeatedly awarded with diplomas and medals of the

I have recently had the pleasure of meeting [the petitioner] and I was very impressed with his knowledge in the sport of wrestling and his ability to teach technique. He has an incredible World Class background and he has wrestled and placed I some of the toughest tournaments at the international level. As a coach he came and worked out with some of the wrestlers on my high school team and in the short time he spent with them he was able to bring out great improvements. He had a very professional yet personable approach in working with the students.

I see [the petitioner] as a person that will make great contributions to American wrestling. He has the knowledge to work with our Olympic level athletes and he has the passion for the sport to work with other aspect [sic] including youth programs.

In the intent to deny the director stated:

The petitioner has submitted evidence to establish that the alien is involved in the wrestling community, however, none of the evidence shows that his work is either original or of major significance to the field. It would be hard to argue that an individual could be considered *original* in such a disciplined, regimented endeavor. Successful performance as a wrestling coach would require skills and abilities that are the antithesis of original.

Although counsel does not respond to the director's argument, we must address the director's argument as we find it to be inaccurate. The director's argument implies that athletes and coaches cannot be innovative or creative in establishing new skills and techniques when, in fact, just the opposite is true. Setting new standards and techniques, and establishing new records are precisely what inspires athletes and coaches. Athletes such as gymnasts, skaters, and wrestlers consistently "push the envelope" and attempt new moves or skills. If successful, not only will they have an advantage over their opponents, they may also have a move named after them.<sup>6</sup>

In this case, however, the petitioner has not shown that he has influenced the wrestling community with new wrestling moves or coaching techniques. Further, without evidence comparing the petitioner's career statistics to those of other national team wrestlers, or evidence of successes as a coach, the petitioner has not shown that his athletic achievements constitute a contribution of major significance to his sport. Certainly, it is not unreasonable to require comparative evidence, in addition to the simple catalogue of the petitioner's achievements as a wrestler and coach provided in the witness letters. Therefore, while we do not agree with the director's reasoning, we do concur with the director's ultimate determination that the petitioner has not satisfied this criterion.

*Evidence of the display of the alien's work in the field at artistic exhibitions or showcases*

Prior counsel asserts that the petitioner's participation in international and national wrestling events satisfies this criterion. He also asserts that as coach of the Russian National Wrestling Team, the petitioner's athletes have participated in the World Cup, the European Championships,

<sup>6</sup> Information obtained about [redacted] indicates that he has had a wrestling move named after him. An article in *Time Europe*, (Sept. 11, 2000, Vol. 156, No.11) says that [redacted] is the only super heavyweight with the strength to hoist a 290-lb. foe and fling him to the mat, in a maneuver the Russian calls a 'reverse body lift.' To execute it [redacted] locks his arms around the waist of an opponent, then lifts the wrestler like a sack of potatoes and, arching his back, heaves the hapless fellow, feet first, over his head" [redacted]. a writer for [www.themat.com](http://www.themat.com) describes the same technique as "the 'patented reverse waist lock-lift and throw' that terrorized heavyweight [redacted] wrestlers worldwide and caused otherwise fierce competitors to throw themselves onto their own backs rather than risk an unscheduled flight and possible injury." Clearly, it is possible for athletes to demonstrate skills and incorporate new techniques that have not previously been accomplished.

the Olympic games, and other numerous national and international competitions. These claims are not persuasive. The wording of this criterion indicates that it is intended for visual artists, such as sculptors and painters, rather than for athletic performance or coaching. Furthermore, given that wrestling matches are virtually always before an audience, every wrestler displays his work in this manner. The ten criteria in the regulations are designed to cover different areas; not every criterion will apply to every occupation.

*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. Where an alien has a leading or critical role for a section of a distinguished organization or establishment, the petitioner must establish the reputation of the section independent of the organization as a whole.

In response to the notice of intent to revoke, counsel argues that as both a competitor and coach, the petitioner played a critical role in the various wrestling organizations to which he has belonged. However, counsel does not cite any documentary evidence to establish the critical role played by the petitioner or the reputation of any of these teams. 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).

Counsel also argues that the petitioner's role as coach of an Olympic champion, five Masters of Sports in wrestling, and one International Level Master of sports in wrestling, satisfies this criterion. We are not convinced by counsel's argument as we do not consider the above individuals to be "establishments" or "organizations." Regardless, as we discussed in a previous criterion, it is our determination that the petitioner has overstated his role in coaching Alexander Karelin, as the evidence in the record reflects that [REDACTED] played a critical role in the coaching and training of [REDACTED] not the petitioner. The record contains no information on the other wrestlers the petitioner has purported to coach other than their names and their titles. There is no documentary evidence to show that it was the petitioner's critical role as coach that enabled these athletes to attain their skills and titles.

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

Although not addressed by prior counsel in the initial submission, counsel, in response to the director's notice of intent to revoke, asserts that as a coach in Russia, the petitioner received more than four times the amount that other wrestling coaches received.

[REDACTED] offers a letter to verify that the petitioner was receiving 5,400 rubles annually, when he was head coach of Dinamo. In contrast, [REDACTED] states that

the average annual salary of other wrestling coaches was 1,400 rubles, without benefits. [REDACTED] states that the petitioner received benefits in addition to his annual salary to include: a 2-bedroom condo, three cars, airplane tickets, and food stamps.

Obviously, such a letter carries less weight in that it was prepared after the initial filing of the petition, and in response to the notice of intent to revoke, rather than being in existence already at the time of filing. We note that the claims in the letter are unsubstantiated by any other documentary evidence in the record, such as paystubs or a job offer letter. Further, it is unclear whether the salary given to the petitioner is high in comparison with other wrestling coaches throughout Russia or only those in Novosibirsk City, or whether the average annual salary stated by [REDACTED] is the average annual salary for all wrestling coaches, including those of high school teams or local clubs, for instance, rather than for coaches at the national level.

Based on the single letter submitted as evidence of his high salary, the petitioner has not demonstrated that his salary is high when compared with the most experienced and well-known wrestling coaches in Russia, including the other coaches on the Russian national team.

The fundamental nature of this highly restrictive visa classification demands comparison between the petitioner and others in his field. The classification is not meant to be easy to obtain and is for individuals at the rarefied heights of their respective fields. An alien can be successful, and even compete at the national or international level, without reaching the top of that field. An alien who is not at the top of his or her field will be unable to submit adequate evidence to establish such acclaim. 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. We cannot deny the petitioner's talent as a wrestler. However, although the petitioner's abilities as a wrestler have been recognized, such recognition has not been sustained since his career as a wrestling competitor ended in the early 1980s.

Further, the statutory language at section 203(b)(1)(A)(ii) requires the petitioner to be "seeking to enter the United States to continue to work in the area of extraordinary ability." Therefore, even if we determined that the petitioner qualifies as an alien of extraordinary ability as a wrestler, because he seeks classification as a wrestling coach, he cannot be considered to be continuing in his area of extraordinary ability. The regulations regarding this preference classification are extremely restrictive, and not expanding "area" to include everything within a particular field cannot be considered unreasonable. *Lee v. Ziglar, Id. at 918. See also, In re X, 1998 WL 2027170 (AAU May 14, 1998); In re Y, No. EAC 97 156 53387, 1998 WL 34022189 (AAU Aug. 6, 1998).*

Moreover, a review of the record does not establish that the petitioner has distinguished himself as a coach 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. Therefore, while we concur with counsel's assertion on appeal, that the petitioner will continue to work as a coach in the United

States, such concurrence is of little consequence as the petitioner has not established that he qualifies as a coach of extraordinary ability.

The evidence is not persuasive that the petitioner's achievements set him significantly above almost all others in his field at a national or international level. Therefore, the petitioner has not established his 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.