

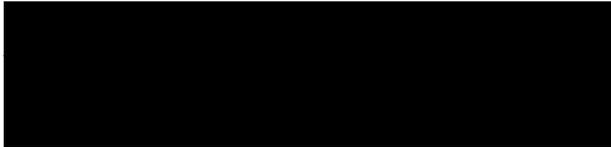


U.S. Department of Justice
Immigration and Naturalization Service

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



File: WAC 01 100 54452 Office: California Service Center Date:

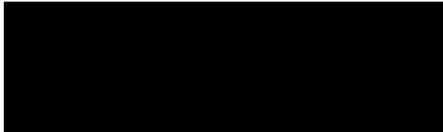
IN RE: Petitioner:
Beneficiary:



FEB 27 2003

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

IN BEHALF OF PETITIONER:



identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

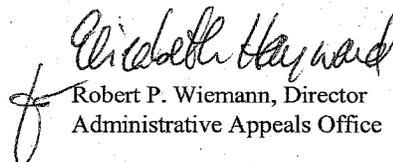
INSTRUCTIONS:

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

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

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

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


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.

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 she has sustained national or international acclaim at the very top level.

This petition, filed on January 29, 2001, seeks to classify the petitioner as an alien with extraordinary ability as a karate competitor. 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 asserts that the petitioner's karate victories at the World Cup for Children and Cadets (Hungary) and the Kobe Osaka International Cup (Scotland) constitute major, internationally recognized achievements in karate that establish her extraordinary ability.

The regulation permitting eligibility based on a major, internationally recognized award must be interpreted very narrowly, with only a small handful of awards qualifying as such. 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 placing first in one's age group at the World Cup for Children and Cadets (Hungary) or the Kobe Osaka International Cup (Scotland) enjoys 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 submitted documentation of her age group victories at the Fifth (1996), Sixth (1997), Seventh (1998) and Eighth (1999) Karate World Cup for Children, Cadets and Juniors held in Hungary.

The petitioner also submitted documentation from the Egyptian Karate Federation stating that the petitioner placed first in the under ten age group in 1998 and first in the under 12 age group in 1999 and 2000.

The petitioner submitted further evidence showing that she placed first in her age group at the United States National Karate Championships (2000).

In response to the director's request for evidence, the petitioner submitted additional awards showing that the petitioner placed first at regional, national and international competitions in 2001, including a gold medal at the Kobe Osaka International Cup (Scotland) on August 11, 2001. This evidence 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 must possess the necessary qualifications as of the filing date of the visa petition.

The awards from 2001 do show, however, that the petitioner continues to achieve national and international recognition within her age group.

We concur with the director's determination that the petitioner satisfies this criterion.

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.

In response to the director's request for evidence, the petitioner submitted evidence of her 2001 membership cards for the Heliopolis and El Zohour sports clubs. It appears that both of these cards were obtained subsequent to the petition's filing. *See Matter of Katigbak, supra.* Also submitted was proof of the petitioner's membership in the Egyptian Karate Federation.

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 would 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 would not satisfy the criterion, because the issue here is membership requirements rather than the association's overall reputation.

The petitioner offers no evidence that her memberships in the sports clubs or the Egyptian Karate Federation required outstanding achievement as judged by nationally or internationally recognized karate experts. Further, the petitioner has failed to provide any information regarding their specific membership requirements.

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.¹

¹ Even with nationally-circulated newspapers, consideration must be given to the placement of the article. For example, an article that appears in the Washington Post, but in a section that is distributed only in Fairfax County, Virginia, cannot serve to spread an individual's reputation outside of that county.

The petitioner initially submitted three certified translations of articles appearing in *Akher Saa* magazine (October 6, 1999), *Akbar Al Riada* newspaper (October 19, 1999), and *Al Ahram* newspaper (December 20, 1996).

In response to the director's request for evidence, the petitioner submitted three translations of additional articles appearing in *El Masri* weekly newspaper (January 1997), *El Shabab* magazine (September 1997), and *Al Akhbar* newspaper (November 4, 1999). Also submitted was the translation of an article (name of publication unknown) entitled "The Young Egyptian Pharaoh" (January 1997).

The extent of the circulation of the above publications, however, has not been provided. Without evidence of their significant national distribution, the petitioner has failed to show that the above publications qualify as major media.

The petitioner also submitted articles dated December 11, 2001, December 27, 2001, and January 26, 2002. *See Matter of Katigbak, supra*. New evidence that did not exist as of the petition's filing date cannot retroactively establish eligibility as of that date. These articles may show that the petitioner has received some recent attention from what appear to be regional youth publications and local newspapers, but it has not been shown that they rise to the level of major media.

In addressing this criterion, the director stated:

While noteworthy, the articles have to be considered in the context of where they were written. The evidence indicates the articles are of foreign origin and would be limited at best to a small fraction of U.S. residents who read Arabic if the newspapers were distributed in the United States.

In this case, however, the articles appear to have been published and circulated in Egypt, not the United States. Pursuant to the statute and regulations, the petitioner is not restricted to demonstrating that the articles earned her national acclaim in the United States (as implied in the director's decision).² The statute and regulations clearly allow for the submission of published materials that demonstrate national acclaim in countries other than the United States.

We agree, however, with the director's finding that "the evidence does not show the media circulation or popularity of the articles on a national or international scale." The majority of the articles provided appear to reflect local, rather than national, media coverage in Egypt.

In sum, the petitioner has not demonstrated sustained attention from major national media such as magazines like *Sports Illustrated* or its foreign equivalent. We find that the articles provided fail to demonstrate the petitioner's national or international acclaim in the sport of karate.

² We note, however, that while the record contains evidence showing that the petitioner received a first place medal in her age group at the United States National Karate Championships (2000), the petitioner has provided no evidence of U.S. media coverage about the petitioner or her receipt of the award.

The director's decision noted the absence of a letter from a U.S. sponsor, but the record does contain such a letter from [REDACTED] Owner of Champion Karate & Fitness in Douglassville, California. He states that the "2001 International Olympic Committee sanctioned karate into the Olympics" and that he plans to prepare the petitioner for future Olympic competition.

In this case, the petitioner has failed to demonstrate that she meets at least three of the criteria that must be satisfied to establish the sustained national or international acclaim necessary to qualify as an alien of extraordinary ability. The petitioner has achieved several first place victories when competing against others in her own age group at national and international karate competitions. While the record demonstrates that the petitioner has been a highly successful competitor, the evidence does not yet show that she has reached the top of her field. Even if it were unanimously agreed that the petitioner would one day reach such a level, this visa classification is reserved for those at the top of their field, not for those who are expected eventually to reach that level.

Review of the record does not establish that the petitioner has distinguished herself as an athlete to such an extent that she may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of her field. The evidence is not persuasive that the petitioner's achievements set her significantly above almost all others in her sport at the national or international level. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

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

ORDER: The appeal is dismissed.