**U.S. Department of Homeland Security**
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Washington, DC 20536

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U.S. Citizenship and Immigration Services

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MAR 26 2004

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Petitioner: [redacted]
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)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Mari Johnson

for Robert P. Wiemann, Director
Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, California Service Center. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on a motion to reopen. The motion to reopen will be granted, the previous decision of the AAO will be affirmed and the petition will be denied.

A motion to reopen must state the new facts to be provided and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or CIS policy. 8 C.F.R. § 103.5(a)(3).

In support of his motion, the petitioner submitted evidence of having competed in the 2003 International Wushu-Kungfu Festival Championships. The petitioner submitted copies of award certificates indicating that he had placed first in four events, second in four events and third in two events. The evidence presented by the petitioner demonstrates his receipt of awards in events occurring subsequent to the filing of his petition for visa preference classification. The 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. *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg. Comm. 1971). The petitioner filed for visa preference classification on June 4, 2002. Therefore, evidence to establish his eligibility must have existed prior to that date.

Furthermore, assuming that the evidence of the awards were acceptable, the petitioner submits nothing to establish that the awards are nationally or internationally recognized awards for excellence as required by the regulation. The petitioner provides information regarding the United States of America Wushu Kungfu Federation (USAWKF), the organization that sponsored the event, and information regarding the guidelines for judging several of the events. However, although the evidence hints of prior competitions, the petitioner offers no further evidence of the championship competition, such as its age, the field of competitors, or the requirements for entering the competition.

The petitioner also submitted a copy of a card showing he is a member of the USAWKF. The membership dates from March 31, 2003 to March 31, 2004. As noted above, as the membership postdates the visa preference petition, the evidence cannot be considered in determining eligibility. *Matter of Katigbak*, 14 I&N Dec. at 49. Additionally, the petitioner submits no evidence that membership in the USAWKF requires outstanding achievement as required by the regulation.

The petitioner also submits photographs of himself with several high profile individuals in the field of martial arts, and indicates that he is socially active in the "wushu-kongfu" field. These photographs do not establish that the petitioner meets any of the criteria enumerated in the regulation at 8 C.F.R. § 204.5(h)(2) and do not establish his sustained acclaim in the field of martial arts.

As the new evidence presented does not overcome the grounds for the previous dismissal, and no reasons are set forth indicating that the decision was based on an incorrect application of law, the previous decisions of the AAO and the director will be affirmed.

**ORDER:** The AAO's decision of July 18, 2003 is affirmed. The petition is denied.