

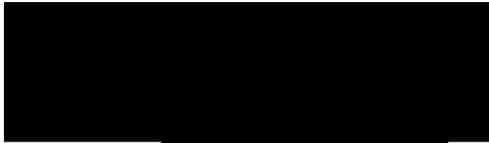
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U.S. Citizenship
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Office: NEBRASKA SERVICE CENTER

Date: FEB 16 2007

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)

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) 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.

On appeal, the petitioner argues that the director's findings were "groundless and incorrect."

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.

Citizenship and Immigration Services (CIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* 56 Fed. Reg. 60897, 60898-9 (November 29, 1991). 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 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 December 23, 2005, seeks to classify the petitioner as an alien with extraordinary ability in athletics as a high-mountain climber and alpine instructor. As required by section 203(b)(1)(A)(i) of the Act and the regulation at 8 C.F.R. § 204.5(h)(3), the petitioner must demonstrate that his national or international acclaim has been sustained. The record reflects that the petitioner has been residing in the United States since August 2001. Given the length of time between the petitioner's arrival in the United States and the petition's filing date (more than four years), it is reasonable to expect him to have earned

national acclaim in the United States during that time. The petitioner has had ample time to establish a reputation in this country.

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, internationally recognized award). On appeal, the petitioner argues his successful climb to the summit of Mount Everest in May 1999 is evidence of a qualifying “one-time achievement” for classification as an alien of extraordinary ability. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3), however, requires a one-time achievement to be demonstrated through the alien’s receipt of a major internationally recognized award. While commendable and extremely difficult, being one of thousands who have followed [REDACTED] and [REDACTED] in successfully scaling Mount Everest is not tantamount to a one-time achievement for purposes of this criterion.¹ Given Congress’ intent to restrict this category to “that small percentage of individuals who have risen to the very top of their field of endeavor,” 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. See H.R. Rep. 101-723 (1990), reprinted in 1990 U.S.C.C.A.N. 6710, 1990 WL 200418 at *6739. Given that the House Report specifically cited to the Nobel Prize as an example of a one-time achievement, examples of one-time awards which enjoy truly international recognition may include the Pulitzer 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.

Barring the alien’s receipt of a major internationally recognized award, the regulation at 8 C.F.R. § 204.5(h)(3) 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 pertaining 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 submitted evidence showing that he is the recipient of an “Order of Honor” Medal through a “Decree of the President of Georgia” (June 10, 1999) for his “outstanding results in alpinism.” We find that the preceding award is adequate to meet 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.

and [REDACTED] were the first individuals to officially reach the summit of Mount Everest in May 1953, 46 years prior to the expedition in which the petitioner reached the summit. See <http://www.mounteverest.net> accessed on January 29, 2007. While [REDACTED] and [REDACTED]’s successful climb undoubtedly earned them widespread international acclaim, the thousands of subsequent climbers to reach the top of Mount Everest have not been shown to have earned a level of acclaim comparable to that of the first summiteers.

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, minimum education or experience, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion as such requirements do not constitute outstanding achievements. In addition, it is clear from the regulatory language that members must be selected at the national or international level, rather than the local or regional level. Therefore, membership in an association that evaluates its membership applications at the local or regional chapter level would not qualify. Finally, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association's overall reputation.

The petitioner submitted evidence of his membership in the Georgian Mountaineers Federation, American Alpine Club, Edelweiss Alpine Club, International Mountaineers Association, United Team of Georgian Climbers. The record, however, includes no evidence of the membership bylaws or the official admission requirements for these associations. There is no indication that admission to membership in the preceding associations required outstanding achievement or that the petitioner was evaluated by national or international experts in consideration of his admission to membership. Thus, the petitioner has not established that he meets 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 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 or international distribution. An alien would not earn acclaim at the national or international 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.²

The petitioner submitted an article entitled "The First Georgian Expedition to Everest" written by "Gia Tortladze, Head of the expedition" and published in the Winter-Summer, 1999/2000 edition of *Georgia Traveler*, a "Nonpolitical magazine about Georgia." The article contains a photograph of the expedition members, including the petitioner, but only mentions him in passing in the text of the article. The plain language of this criterion, however, requires "published materials about the alien." If the petitioner is not the primary subject of the material, then it fails to demonstrate his individual acclaim. A second article from an unidentified source dated February 12, 1998 and entitled "We Will Conquer Everest" features a photograph of the petitioner and discusses his accomplishments. The author and date of the second article were not identified as required by this criterion. A third article entitled "Thank you [REDACTED], to let me climb!"

² 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.

and published in the June 17th – 24th, 1999 issue of *Post Script* includes an interview of the petitioner discussing his Mount Everest expedition. A fourth article by [REDACTED] was dated November 11, 1992 and published in *Horizon*. This article features an interview of [REDACTED] and only mentions the petitioner in passing. There is no evidence showing that any of the preceding publications had significant national or international readership.

The petitioner also submitted a document entitled “List of publications by and about [the petitioner]” which listed a total of 27 articles. The plain language of the criterion at 8 C.F.R. § 204.5(h)(3)(iii), however, requires submission of the actual published material. The petitioner’s listing of articles does not meet this requirement. Regarding the articles in this listing for which the petitioner has not submitted supporting evidence, we note that simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The petitioner also submitted printouts from two internet websites that mention him in connection with his 1999 Mount Everest expedition. The first printout is from *Everest News* and includes the petitioner’s name among a list of numerous climbers who reached the summit in the Spring of 1999. The second printout is from a *Risk Online* June 1999 archive and contains a photograph of the petitioner identifying him as one of the expedition members. The record is devoid of any evidence that these materials were published in professional, major trade publications or other major media. Consequently, they do not constitute evidence of the petitioner’s eligibility under this criterion.

Finally, we do not find that published material limited to the 1990’s is adequate to demonstrate the petitioner’s sustained national or international acclaim. Without evidence demonstrating that the petitioner has been the primary subject of major media coverage subsequent to 2000, we cannot conclude that he meets this criterion.

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

The petitioner submitted several letters of support attesting to his standing, achievements, and experience.

President, American Alpine Club, states that the petitioner “undoubtedly, is one of the top masters in mountaineering: his conquering all the highest peaks in the world proved him to be one of the best in the field.” [REDACTED] also notes that the petitioner has a “rich experience [as] an alpine master and instructor and brilliant technique.” [REDACTED] does not specify or explain the petitioner’s “brilliant technique” and the record does not otherwise establish that his technique has made a major contribution to his sport.

who the petitioner has accompanied on multiple climbing expeditions, has served as President of the International Alpinist Association, President of the Georgian Mountaineering Federation, and most recently as a Member of Parliament of the Republic of Georgia. In each of these capacities, he has [REDACTED] letter of support in the petitioner’s behalf. In an undated letter accompanying the petition, [REDACTED] states:

[The petitioner] during his alpinist activity has accomplished more than 500 ascensions to different peaks of the world. He is a very skillful alpinist; he is a good strategist and excellent tactician. Each of the ascensions, planned by him has had a 100% success. It is worth mentioning during his the 32 years of his alpinist activity, there were no accidents in his teams.

██████████ President of Asian Trekking (P), Limited, who has coordinated expeditions involving the petitioner, states that the petitioner “conquered 6 out [of] 14 highest peaks of the planet. We are familiar of his treks onto mountain systems in the world, 500 of which [the petitioner] conquered.”

██████████, Chairman of the Alpine Federation of Russia, asserts that the petitioner has “climbed and conquered more than 500 peaks throughout the world and six times he ascended the Himalayan 8000-meter peaks.”

In response to the director’s request for evidence, the petitioner submitted additional letters of support.

Italian Alpine Club, states: “[The petitioner] is the alpinist of the high professional level and skills. He is an active sportsman and organizer of many complex expeditions. His name is well known among the best elite sportsman all over the world.”

██████████, Professional Tour Guide, Asian Trekking (P), Limited, states: “There are eight hundred people who climbed Everest and died there. There is no more difficult win in any kind of sport than winning Everest. [The petitioner] is one of very few people in the world who solve the problem of Everest climbing.” The petitioner’s successful climb of Mount Everest, however, does not represent an “original” contribution as required by the plain language of the criterion at 8 C.F.R. § 204.5(h)(3)(v). Hundred of climbers had successfully reached the summit of Mount Everest long before the petitioner’s ascent in 1999. While ██████████ and ██████████ successful climb undoubtedly represented an original contribution of major significance in mountaineering in 1953, we do not find that each of the thousands of subsequent climbers who have successfully reached the summit of Mount Everest are also responsible for an original contribution of major significance in their sport.

In separate letters, ██████████ Member of Parliament of the Republic of Georgia, and ██████████ Chairman of Parliament of the Republic of Georgia, state:

[The petitioner] created a multitude of innovative and progressive branches in climbing. His were the first high Himalayan ascensions without oxygen during the international climbing expeditions when he took part in Georgian climbing team. He is a pioneer in the area of development of climbing technologies of ascension among Georgian climbers.

The identical letters from ██████████ and ██████████ submitted in response to the director’s request for evidence fail to specifically identify or explain the innovative climbing technologies developed by the petitioner and the record does not otherwise establish that any of his innovations or techniques represented a major contribution to his sport.

Letters of support alone cannot serve as primary evidence of the original contributions required by the criterion at 8 C.F.R. § 204.5(h)(3)(v). Even when written by independent experts, letters solicited by an alien in support of an immigration petition carry less weight than preexisting, independent evidence of major contributions that one would expect of an alien who has sustained national or international acclaim. The benefit sought in the present matter is not the type for which documentation is typically unavailable and the statute specifically requires “extensive documentation” to establish eligibility. *See section 203(b)(1)(A)(i) of the Act.* The commentary for the proposed regulations implementing section 203(b)(1)(A)(i) of the Act provide that the “intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required” for lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991). Thus, the regulatory criteria require specific documentation beyond mere testimony and the petitioner cannot arbitrarily replace such evidence with attestations from those writing in his behalf, who assert that they find his abilities to be extraordinary.

In this case, the evidence submitted by the petitioner does not establish that any of his accomplishments represent original contributions of major significance to mountaineering in a manner consistent with the requisite sustained acclaim. In order to satisfy this criterion, the petitioner must show that his mountaineering contributions have demonstrably influenced the greater field at the national or international level. The record, however, includes no evidence showing that the petitioner is responsible for developing specific equipment or climbing techniques that have had a major impact in the sport of mountaineering. We accept that the petitioner is a skilled and active climber, but the evidence does not establish that any of his past accomplishments rise to the level of an original contribution of major significance in his sport. Thus, the petitioner has not established that he meets this criterion.

Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.

The petitioner submitted evidence of his authorship of articles appearing in *Imereti News* (December 11, 1998) and *Kutaisi* (October 10, 1986 and November 12, 1987). The *Imereti News* article is about the history, culture and traditions of Nepal rather than the sport of mountaineering. The articles printed in *Kutaisi* were personal memoirs from two of the petitioner’s mountain climbing expeditions. We do not find that the preceding published material qualifies as “scholarly articles” in mountaineering. Further, without evidence of their national or international circulation, we cannot conclude that that the aforementioned publications qualify as “professional or major trade publications or other major media.” Thus, the petitioner has not established that he meets 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 he performed in a leading or critical role for an organization or establishment with a distinguished reputation, the petitioner must establish the nature of his role within the entire organization or establishment and the reputation of the organization or establishment.

The record indicates that the petitioner was a founding member of the Georgian Mountaineers Federation and a leading instructor for the Edelweiss Alpine Club. However, the petitioner submitted no evidence that these

two organizations have distinguished reputations or that he has performed in a leading or critical role for either organization in a manner reflective of sustained national or international acclaim.

In response to the director's request for evidence, the petitioner submitted articles of incorporation indicating that he formed the [REDACTED] on February 23, 2006 in the state of Colorado. This organization was formed subsequent to the petition's filing date. A petitioner, however, must establish eligibility at the time of filing. 8 C.F.R. § 103.2(b)(12); *see Matter of Katigbak*, 14 I&N Dec. 45 (Comm. 1971). Accordingly, the AAO will not consider this evidence in this proceeding. Nevertheless, there is no evidence showing that this organization has a distinguished reputation.

In light of the above, the petitioner has not established that he meets this criterion.

In this case, we find that the evidence presented by the petitioner satisfies only one of the regulatory criteria at 8 C.F.R. § 204.5(h)(3). We concur with the director's finding that the petitioner has failed to demonstrate his receipt of a major internationally recognized award, or that he meets at least three of the criteria that must be satisfied to establish the national or international acclaim necessary to qualify as an alien of extraordinary ability.

Review of the record does not establish that the petitioner has distinguished himself 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 is not persuasive that the petitioner's achievements set him significantly above almost all others in his field 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.