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U.S. Citizenship  
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FILE:

[REDACTED]  
EAC 06 093 50371

Office: VERMONT SERVICE CENTER

Date: **MAR 25 2008**

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:

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, Vermont 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, counsel asserts that the petitioner “qualifies for the EB-1 category as an alien of extraordinary abilities in Taekwondo. [The petitioner] is truly at the top of his field and he has sustained both national and international acclaim that are recognized by experts in his field of Taekwondo.”

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 into 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, 60898-99 (Nov. 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 February 8, 2006, seeks to classify the petitioner as an alien with extraordinary ability as a “Taekwondo Master – School Head Master.” The record reflects that the petitioner has worked as an instructor at Park’s World Champion Taekwondo in Monroe, Connecticut since 2002. Regarding his plans for employment in the United States, the petitioner states:

I will continue my activities with Park's World Champion Taekwondo or any other reputable taekwondo school, and will play a vital role as the School Headmaster and Coach for competitions and events.

\* \* \*

I will coach and train advanced students for purposes of entering into the more important regional and national competitions.

Evidence submitted with the petition shows that the petitioner won multiple national and international awards during the 1990s as a taekwondo competitor in Korea. However, according to Part 3 of the Form I-140 petition, letters from the petitioner and his current employer, and other documentation in the record, he is seeking work in the United States as a taekwondo coach rather than as a competitive athlete. There is no evidence that the petitioner, age 33 at the time of filing, remains active as a taekwondo competitor at the national or international level. The statute and regulations require the petitioner's national or international acclaim to be *sustained* and that he seeks to continue work in his area of expertise in the United States. See sections 203(b)(1)(A)(i) and (ii) of the Act, 8 U.S.C. §§ 1153(b)(1)(A)(i) and (ii), and 8 C.F.R. §§ 204.5(h)(3) and (5). While a taekwondo competitor and a coach certainly share knowledge of the sport, the two rely on very different sets of basic skills. Thus, competitive athletics and coaching are not the same area of expertise. This interpretation has been upheld in Federal Court. In *Lee v. I.N.S.*, 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. In the present matter, there is no evidence that the petitioner has sustained national or international acclaim through competitive athletic achievements subsequent to the 1990s or that he intends to compete here in the United States. While the petitioner's athletic accomplishments as competitor are not completely irrelevant and will be given some consideration, ultimately he must satisfy the regulation at 8 C.F.R. § 204.5(h)(3) through his achievements as a taekwondo instructor and coach.

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, counsel argues that the petitioner's gold medals from the 11<sup>th</sup> Asian Taekwondo Championships (1994), 12<sup>th</sup> Asian Games (1994), and 12<sup>th</sup> Asian Taekwondo Championships (1996) are "major and internationally recognized awards." As discussed previously, there is no evidence that the petitioner has successfully competed subsequent to the 1990s or that he intends to compete here in the United States. As such, the petitioner's awards demonstrating his past record of athletic success as a competitor cannot serve to satisfy the regulation. Nevertheless, we will address the petitioner's claim that the preceding awards qualify as major, internationally recognized awards.

Congress' example of a one-time achievement is a Nobel Prize. *See* H.R. Rep. 101-723, 59 (Sept. 19, 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 major, international recognition may include the Pulitzer Prize, the Academy Award, and (most relevant for athletics) an Olympic medal. The regulation is consistent with this legislative history, stating that a one-time achievement must be a *major, internationally recognized* award. 8 C.F.R. § 204.5(h)(3). Significantly, even a lesser internationally recognized award could serve to meet only one of the ten regulatory criteria, of which an alien must meet at least three. 8 C.F.R. § 204.5(h)(3)(i). The selection of Nobel Laureates, the example provided by Congress, is reported in the top media internationally regardless of the nationality of the awardees, is a familiar name to the public at large, and includes a large cash prize. While an internationally recognized award could conceivably constitute a one-time achievement without meeting all of those elements, it is clear from the example provided by Congress that the award must be global in scope and internationally recognized in the alien's field as one of the top awards in that field.

On appeal, the petitioner submits results printed from the Asian Taekwondo Union's internet site for the 11<sup>th</sup> and 12<sup>th</sup> Asian Taekwondo Championships reflecting that there were "20" participating Asian nations in the competition. However, a July 25, 1995 press release submitted by the petitioner "[f]rom the Office of the Minister for Sport, Recreation and Racing" (Australia) states that "33 Asian nations" were to participate in the 12<sup>th</sup> Asian Taekwondo Championships. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The petitioner also submits general information regarding the Asian Games. This information indicates the 12<sup>th</sup> Asian Games had "42" participating nations and that it "is a multi-sport event held every four years among athletes from all over Asia."

With regard to the petitioner's medals from the Asian Games and the Asian Taekwondo Championships, the evidence of record is not sufficient to demonstrate that they qualify as major, internationally recognized awards. Clearly an award with a geographically restricted pool of competitors cannot serve as a major, international award on the level of an Olympic medal or a comparable major, internationally recognized award (such as a gold medal from the World Taekwondo Championships). As the plain language of the regulation at 8 C.F.R. § 204.5(h)(3) qualifies the phrase "international recognized award" with the limitation "major," we cannot conclude that the petitioner's involvement in a regional international competition limited to only Asian nations satisfies the regulation. While we accept that the petitioner's receipt of gold medals at the 11<sup>th</sup> and 12<sup>th</sup> Asian Taekwondo Championships and the 12<sup>th</sup> Asian Games is evidence of lesser international competitive recognition in his sport, the petitioner has not established that his receipt of gold medals at these competitions is evidence of "major, international" recognition as required by the regulation. For example, there is no evidence that taekwondo medalists from the aforementioned competitions received significant international media attention in the general or martial arts sports media of multiple countries worldwide.















