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FILE: LIN 04 037 54940 Office: NEBRASKA SERVICE CENTER Date: JUN 13 2005

IN RE: Petitioner:
Beneficiary:



PETITION: Petition for a Nonimmigrant Worker under Section 101(a)(15)(O)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(O)(i)

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.

Mari Johnson

Case
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant 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 is a regional consulting company, providing taekwondo instructors to schools and programs. The beneficiary in this matter is a 28-year old native and citizen of the Republic of Korea (South Korea). The petitioner seeks O-1 classification of the beneficiary, as an alien with extraordinary ability in athletics under section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(O)(i), in order to employ him in the United States as a master taekwondo instructor for a period of three years at an annual salary of \$36,000.

The director denied the petition, finding that the petitioner failed to establish that the beneficiary is one of the small percentage who has risen to the very top of his field of endeavor.

On appeal, counsel for the petitioner submits a brief.

Section 101(a)(15)(O)(i) of the Act provides classification to a qualified alien who has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim, whose achievements have been recognized in the field through extensive documentation, and who seeks to enter the United States to continue work in the area of extraordinary ability.

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 arisen to the very top of the field of endeavor. 8 C.F.R. § 214.2(o)(3)(ii). 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. § 214.12(o)(3)(iii). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that the beneficiary has sustained national or international acclaim at the very top level.

This petition seeks to classify the beneficiary as an alien with extraordinary ability as a taekwondo master. The regulation at 8 C.F.R. § 214.2(o)(3)(iii) 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). Barring the alien’s receipt of such an award, the regulation outlines eight 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, it claims, meets the following criteria.¹

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

For criterion number one, the petitioner asserts that the beneficiary satisfies this criterion by virtue of his receipt of the following:

¹ The petitioner does not claim to meet or submit evidence relating to the criteria not discussed in this decision.

- In 2003, the beneficiary won a Gold Medal in the light heavy² weight forms division at the 12th Annual U.S. Open Taekwondo Championship.
- In 2003, the beneficiary placed first in the black belt gyoroogi division at the 11th USNTF International Taekwondo Championships held at Triton College, River Grove, Illinois.
- In 2003, the beneficiary received a Presidential Sports Award.
- The beneficiary received a citation from the Illinois Korean American Taekwondo Association in 2003 for his contribution to the development of the association.
- In recognition of his dedicated services and outstanding contribution to the development of taekwondo, the beneficiary received a citation from the World Taekwondo Federation.

The petitioner submitted a letter from [REDACTED] stating that the first two awards listed above are internationally acclaimed. 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 director noted that it appears that the awards were obtained in regional competitions; and hence, cannot be considered evidence of national or international acclaim.

In review, the petitioner failed to establish that these are internationally or nationally recognized awards for excellence in the field of endeavor. The petitioner failed to provide CIS with sufficient evidence to demonstrate the significance of these awards, the reputation of the organizations granting the awards, and the criteria used to select the recipient. A plain reading of the Presidential Award indicates that it was granted in recognition of the beneficiary's participation in sports. The two citations were awarded to recognize the beneficiary's efforts to develop taekwondo. The beneficiary does not satisfy 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.

For criterion number two, the petitioner asserts that the beneficiary's membership in the Kukkiwon Academy of Taekwondo, as evidenced by his 4th Dan Black Belt Certificate from the Kukkiwon Academy, satisfies this criterion. The record contains evidence that the beneficiary earned a 4th Dan black belt in the form of a certificate. It does not establish that the Kukkiwon Academy is an association, as required by the regulation. It is further noted that the petitioner submitted a letter written by the president of the petitioning organization that states that the beneficiary has achieved a 5th Dan black belt. On appeal, counsel for the petitioner mentions the beneficiary has a 4th Dan black belt. It is unclear whether the beneficiary has achieved a 5th Dan black belt or a 4th Dan black belt. 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

² It is unclear if the beneficiary was in the light or heavy form division.

submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The beneficiary does not satisfy this criterion. Based on the conflicting information, it is not possible to determine what level belt the beneficiary holds, if any.

Evidence of the alien's participation on a panel, or individually, as a judge of the work of others in the same or in an allied field of specialization to that for which classification is sought.

The petitioner asserts that the beneficiary satisfies this criterion based on his training credentials from the Kukkiwon Academy and his training experience. Just doing his job.

On appeal, counsel for the petitioner cites seven unpublished AAO decisions, stating the decisions are distinguishable from the facts in this case. Unpublished decisions

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not met that burden.

ORDER: The appeal is dismissed.