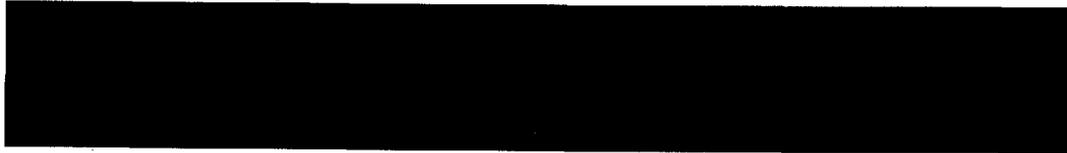


identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**



*D 9*

FILE: SRC 05 008 53511 Office: TEXAS SERVICE CENTER Date: NOV 23 2005

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

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

*Maui Johnson*

2 Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center, denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner consists of two entities, a martial arts business and a health care company. The petitioner is seeking classification of the beneficiary under section 101(a)(15)(P)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(P)(i), for a period of three years as a Taekwondo instructor.

The director denied the petition, finding that the petitioner failed to establish that the beneficiary is internationally recognized.

On appeal, the petitioner submits a statement and additional evidence.

Under section 101(a)(15)(P)(i) of the Act, an alien having a foreign residence which he or she has no intention of abandoning may be authorized to come to the United States temporarily to perform services for an employer or sponsor. Section 214(c)(4)(A) of the Act, 8 U.S.C. § 1184(c)(4)(A), provides that section 101(a)(15)(P)(i) of the Act applies to an alien who:

(i) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance, and

(ii) seeks to enter the United States temporarily and solely for the purpose of performing as such an athlete with respect to a specific athletic competition.

The regulation at 8 C.F.R. § 214.2(p)(3) states that:

*Internationally recognized* means having a high level of achievement in a field evidenced by a degree of skill and recognition substantially above that ordinarily encountered, to the extent that such achievement is renowned, leading, or well-known in more than one country.

The regulation at 8 C.F.R. § 214.2(p)(4)(ii) sets forth the documentary requirements for P-1 athletes as:

(A) General. A P-1 athlete must have an internationally recognized reputation as an international athlete or he or she must be a member of a foreign team that is internationally recognized. The athlete or team must be coming to the United States to participate in an athletic competition which has a distinguished reputation and which requires participation of an athlete or athletic team that has an international reputation.

(B) Evidentiary requirements for an internationally recognized athlete or athletic team. A petition for an athletic team must be accompanied by evidence that the team as a unit has achieved international recognition in the sport. Each member of the team is accorded P-1 classification based on the international reputation of the team. A petition for an athlete who will compete individually or as a member of a U.S. team must be accompanied by evidence that the athlete has

achieved international recognition in the sport based on his or her reputation. A petition for a P-1 athlete or athletic team shall include:

- (1) A tendered contract with a major United States sports league or team, or a tendered contract in an individual sport commensurate with international recognition in that sport, if such contracts are normally executed in the sport, and
- (2) Documentation of at least two of the following:
  - (i) Evidence of having participated to a significant extent in a prior season with a major United States sports league;
  - (ii) Evidence of having participated in international competition with a national team;
  - (iii) Evidence of having participated to a significant extent in a prior season for a U.S. college or university in intercollegiate competition;
  - (iv) A written statement from an official of a major U.S. sports league or an official of the governing body of the sport which details how the alien or team is internationally recognized;
  - (v) A written statement from a member of the sports media or a recognized expert in the sport which details how the alien or team is internationally recognized;
  - (vi) Evidence that the individual or team is ranked if the sport has international rankings; or
  - (vii) Evidence that the alien or team has received a significant honor or award in the sport.

The first issue to be addressed in this proceeding is whether the petitioner established that the beneficiary is internationally recognized, e.g., having a high level of achievement in the sport, recognition substantially above that ordinarily encountered, and recognition as a leading athlete in more than one country. A petitioner may establish that a beneficiary is an internationally recognized athlete by demonstrating that the beneficiary meets at least two of the seven of criteria set forth at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2). In the instant case, the petitioner submitted evidence in relation to criteria numbers four, five, six and seven.<sup>1</sup>

For criterion number four, the petitioner submitted a letter dated November 1, 2004, written by Master ██████████ President of the U.S. ██████████ ██████████ in, Texas. The petitioner also submitted a letter dated October 30, 2004, from Dr. ██████████ ██████████ President of the ██████████ ██████████

<sup>1</sup> The petitioner does not claim that the beneficiary meets criteria not discussed in this decision.

Centereach, New York. Neither Master [REDACTED] or Dr. [REDACTED] are officials of the governing body for Taekwondo. USA Taekwondo is the national governing body for the sport of Taekwondo in the United States. See <http://www.wrf.org>. The beneficiary does not satisfy criterion number four.

For criterion number five, the petitioner submitted letters written by Master [REDACTED] and Dr. [REDACTED]. Master [REDACTED] states that the beneficiary's "extraordinary ability and achievement in the sport of Tae Kwon Do is universally recognized and appreciated." Dr. [REDACTED] states that the beneficiary "has achieved a qualification of teaching Taekwondo as a Master Instructor certified from World Taekwondo Federation." These letters do not provide specific information as to how the beneficiary is internationally recognized. The petitioner has failed to establish that the beneficiary satisfies criterion number five.

For criterion number six, the petitioner asserts that the beneficiary satisfies this criterion because he has achieved the [REDACTED]. The petitioner failed to establish that the beneficiary achieved a certain ranking in his sport by virtue of receiving the [REDACTED] promotion. The petitioner failed to submit any evidence relating to ranking in the sport of Taekwondo. The petitioner failed to establish that the beneficiary meets this criterion.

For criterion number seven, the petitioner submitted evidence that the beneficiary has completed the 105<sup>th</sup> Taekwondo Leader Education Level 3 course, and participated in the open Mexican Taekwondo Championship in 1999, and in the Asian Regional Taekwondo Tournament in September 1999, participated in an Olympic Run Day in June 1998, and helped to organize the 7<sup>th</sup> San Diego Taekwondo Championship. The petitioner failed to establish that by participating in these courses and tournaments, the beneficiary received a significant honor or award in the sport. The petitioner submitted evidence that the beneficiary was awarded an outstanding leader certificate by the Martial Arts World Korea in December 2002 and the "most excellent leader award" by the Hakgyobubin songgok school in October 2003. The petitioner failed to establish the significance of these awards. The beneficiary does not satisfy this criterion.

The petitioner has failed to establish that the beneficiary satisfies at least two of the criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B); hence, it failed to establish that the beneficiary is internationally recognized.

Beyond the decision of the director, it is noted that the petitioner failed to establish that the beneficiary is coming to the United States to participate in athletic competitions that have a distinguished reputation, as required by 8 C.F.R. § 214.2(p)(4)(ii)(A). The petitioner submitted no evidence with respect to this requirement and indicated that the beneficiary was coming to the United State to teach rather than compete. For this additional reason the petition may not be approved.

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. See *Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); see also *Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989)(noting that the AAO reviews appeals on a *de novo* basis).

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. In visa petition proceedings, the burden of proof in visa petition proceedings

SRC 05 008 53511

Page 5

remains entirely 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.