

**PUBLIC COPY**



**U.S. Citizenship  
and Immigration  
Services**

**Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

**B2**



FILE: EAC 03 180 52608 Office: VERMONT SERVICE CENTER Date: **AUG 18 2005**

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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director  
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 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 that the petitioner had not established the sustained national or international acclaim requisite to classification as an alien of extraordinary ability.

Section 203(b) of the Act states, in pertinent part:

(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.

The applicable regulation defines the statutory term "extraordinary ability" as "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). Specific supporting evidence must accompany the petition to document the "sustained national or international acclaim" that the statute requires. 8 C.F.R. § 204.5(h)(3). An alien can establish sustained national or international acclaim through evidence of a "one-time achievement (that is, a major, international recognized award)." *Id.* Absent such an award, an alien can establish the necessary sustained acclaim by meeting at least three of ten other regulatory criteria. *Id.* However, the weight given to evidence submitted to fulfill the criteria at 8 C.F.R. § 204.5(h) must depend on the extent to which such evidence demonstrates, reflects, or is consistent with sustained national or international acclaim at the very top of the alien's field of endeavor. A lower evidentiary standard would not be consistent with the regulatory definition of "extraordinary ability" as "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).

In this case, the petitioner seeks classification of the beneficiary as an alien with extraordinary ability in athletics as a mountaineer and alpine instructor. The petitioner submitted supporting evidence including a letter from the International Mountaineers Association (IMA), a certificate from the Georgian Federation of Mountaineering, a certificate from the Mountaineering Association of Tibet, evidence of the beneficiary's membership in mountaineering and alpine associations, media articles, and a copy of the beneficiary's 2002 federal income tax return. The director found the record did not establish that the beneficiary had achieved the requisite sustained

acclaim. On appeal, the petitioner submits a letter and additional evidence including the beneficiary's resume, four support letters from mountaineering professionals, and a copy of the beneficiary's diploma. The petitioner's claims and the additional evidence submitted on appeal do not overcome the deficiencies of the petition and the appeal will be dismissed. We address the evidence submitted and the petitioner's contentions in the following discussion of the regulatory criteria relevant to the petitioner's case.

*(i) 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 a photocopy of an unidentified medal and a certificate from the Mountaineering Association of Tibet, Autonomous Region of the People's Republic of China. The certificate affirms that "on 26 May 1999 at 13:45, the Summit of Everest Georgian Team Leader [REDACTED] has reached the altitude of 8848, 1.3m (5 member) above sea level on an expedition to peak 8848 of Mount Everest. Members: [REDACTED]" Even if this certificate is a nationally or internationally recognized prize or award for mountaineering excellence, it was granted to the beneficiary in 1999, four years before this petition was filed, and does not demonstrate sustained acclaim.

A letter from [REDACTED] President of the International Mountaineers Association, states that the beneficiary "has repeatedly gained the championship and prize places on different championships of the former USSR," but the record contains no evidence to corroborate this claim. In his letter submitted on appeal, the petitioner's president, [REDACTED], explains that "[t]he pictures of medals and Diplomas he received are only a few he was awarded with. In his resume, only a few, most significant ones, are represented: number of other prizes he got exceeds hundreds" (emphasis in original). The beneficiary's resume lists ten awards including "'Order of Honor' of the Republic of Georgia (highest award)" and "Olympic Gold Medal of Israel," but the petitioner submitted no documentary evidence of these awards. The burden of proof in visa petition proceedings remains entirely with the petitioner, Section 291 of the Act, 8 U.S.C. § 1361. Simply going on record without supporting documentary evidence is not sufficient to meet 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)). Accordingly, the beneficiary does not meet this criterion.

*(ii) 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.*

The record indicates that the beneficiary is a member of the United Team of Georgian Climbers, the Georgian Mountaineers Federation, the Edelweiss alpine club, the International Mountaineers Association (IMA), and the American Alpine Club. The letter of IMA president, [REDACTED] submitted on appeal states that the beneficiary has been a member of the United Team of Georgian Climbers since 1986, but the record contains no corroborative documentation of the beneficiary's membership in this team or evidence that outstanding achievements are prerequisite to team membership. [REDACTED] letter submitted with the petition states that the beneficiary "has been the member and one of the founders of the Georgian Mountaineers Federation since 1990." The record indicates that the beneficiary climbed Mount Everest in 1999 and a peak named "America 500" in the Caucasian mountains in 1992 as part of this federation, but the petitioner submitted no evidence of the federation's membership criteria or other evidence that outstanding achievements are prerequisite to membership in the federation. In both of his letters, [REDACTED] states that the beneficiary has been an instructor for the Edelweiss alpine club for more than 15 years. In addition, the petitioner submitted a copy of

an article from an unidentified source dated February 12, 1998 and entitled "We Will Conquer Everest." This article states that the Edelweiss club is "presided by the honoured sportsman, master of sport Merab Nemsitsveridze." But again, the record contains no evidence that outstanding achievements are prerequisite to Edelweiss club membership.

A printout from the IMA website contains a photograph of the beneficiary in a list of "Founders and Members of IMA," but the association's charter states that "[a]ny citizen can become a member of the Association who recognizes the goals of the Association and its Charter." The printout does not indicate that outstanding achievements are prerequisite to IMA membership.

The petitioner submitted a letter dated December 13, 2002 welcoming the beneficiary as a member of the American Alpine Club (AAC). The letter states, "The American Alpine Club offers opportunities to work and play with a diverse and talented group of members. As a member, you join the country's best climbers." On appeal, the petitioner submits a letter from [REDACTED] President of the AAC. [REDACTED] affirms that "[i]t is with great pleasure that we welcomed [the beneficiary] in our club: it's a great honor to have one of the best mountaineers of the world participating in the club's work." However, the record contains no documentation of the AAC membership criteria or other evidence that outstanding achievements are prerequisite to AAC membership. Accordingly, the beneficiary does not meet this criterion.

*(iii) Published material 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.*

The record contains an article entitled "The First Georgian Expedition to Everest" written by [REDACTED] Head of the expedition" and published in the Winter-Summer, 1999/2000 edition of *Georgia Traveller*, a "Nonpolitical magazine about Georgia." The article contains a photograph of the expedition members, including the beneficiary, but only mentions the beneficiary in passing in the text of the article. A second article from an unidentified source dated February 12, 1998 and entitled "We Will Conquer Everest" features a photograph of the beneficiary and discusses his accomplishments. The petitioner also submitted printouts from two websites that mention the beneficiary in connection with his Mount Everest expedition. The first printout is from *Everest News* and includes the beneficiary in a list of climbers who have reached the summit. The second printout is from *Risk Online* and contains a photograph of the beneficiary and identifies 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 evidence the beneficiary's eligibility under this criterion.

The record also contains a photocopy of a videotape labeled "SNN Everest 99 Manasli 98 America 92." The photocopy contains a handwritten caption, "It was broadcasted by CNN in 1999 (July)." Yet the petitioner did not submit this videotape or any other primary evidence that the Cable News Network or any other major media source reported his climbs. Again, simply going on record without supporting documentary evidence is not sufficient to meet the burden of proof in these proceedings. *Id.* Accordingly, the beneficiary does not meet this criterion.

*(iv) Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.*

The record indicates that the beneficiary has been a mountaineering instructor for the Edelweiss alpine club. While this work undoubtedly includes judging his students' abilities, it does not demonstrate the beneficiary's eligibility under this criterion. Duties or activities which nominally fall under a given regulatory criterion at 8 C.F.R. § 204.5(h)(3) do not demonstrate national or international acclaim if they are inherent or routine in the occupation itself, or in a substantial proportion of positions within that occupation. The petitioner submitted no evidence that the beneficiary has judged the work of other individuals in his field in a manner significantly outside the general duties of his position as a mountaineering instructor and reflective of national or international acclaim. Accordingly, he does not meet this criterion.

*(v) Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.*

The record contains seven support letters written by the petitioner and three mountaineering experts who have worked with the beneficiary. While such letters provide relevant information about an alien's experience and accomplishments, they cannot by themselves establish the alien's eligibility under this criterion because they do not demonstrate that the alien's work is of major significance in his field beyond the limited number of individuals with whom he has worked directly. 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. Accordingly, we review the letters as they relate to other evidence of the petitioner's contributions.

On appeal, the petitioner states, "The Beneficiary has conquered more than 500 highest peaks in the world, including ALL highest peaks known on ALL continents (see his resume): only about 100 people in the world conquered the same peaks, and only a few dozens reached that number of climbings; besides, he was a Pioneer on the highest peaks – to climb without oxygen." The beneficiary's resume states that he is a "[c]onqueror of more than 500 highest peaks in the world, including the highest peaks on ALL continents . . . Participant and Team Leader of hundreds of mountain expeditions; Pioneer of climbing without oxygen." The letter of IMA President, ██████████ submitted with the petition, states that the beneficiary "has done more than 120 difficult claims [sic]. . . . In 1992 he climbed the peak of Shisha-Pangma (8046 m.) In 1999 he climbed the peak of Everest (8848 m.) He has done more than 50 the most difficult climbs. He has climbed all the 7000 m. peaks of the former USSR." In his letter submitted on appeal, ██████████ states the beneficiary "has done about 500 hundreds [sic] climbs to the highest peaks on the Earth." ██████████ President of Asian Trekking (P), Limited, affirms that the beneficiary "participated in many team climbs to the most highest [sic] peaks in Himalayas, Tibet, Pamir and Tian-Shan; beside those, he conquered all the highest peaks on all continents. Also, he was an instructor and leader in many climbs: his brilliant mountaineering technique and very rich experience contributed greatly to the success of many our expeditions [sic]." ██████████ AAC President, writes that the beneficiary, "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." ██████████ also notes that the beneficiary has a "rich experience [as] an alpine master and instructor and brilliant technique." Neither ██████████ nor ██████████ specify or explain the beneficiary's "brilliant technique" and the record does not otherwise establish that his technique has made a major contribution to his sport.

The record contains corroborative evidence of only two of the beneficiary's expeditions. Evidence regarding his 1999 expedition on Mount Everest was discussed above under the first and third criteria. The petitioner also submitted a Certificate attesting to the naming of "America 500," a previously unnamed peak in the Caucasian mountains, in 1992. The beneficiary is named on the certificate as the "Leader of the expedition." A third letter

from ██████ written in his position as President of the Georgian Mountaineering Federation and submitted on appeal affirms that the beneficiary climbed this mountain. Yet the record contains no other primary evidence to document the beneficiary's alleged climbing of all the highest peaks known on all continents. While the beneficiary's resume and the support letters may attest to these accomplishments, simply going on record without supporting documentary evidence is not sufficient to meet the burden of proof in these proceedings. *Id.*

The record thus shows that the petitioner has climbed "America 500" and Mount Everest, but the evidence submitted does not establish that these accomplishments made original contributions of major significance to mountaineering in a manner consistent with the requisite sustained acclaim. The record also fails to document the beneficiary's other alleged climbs and contributions to his sport. Accordingly, the beneficiary does not meet this criterion.

*(vii) Evidence of the display of the alien's work in the field at artistic exhibitions or showcases.*

In his first letter submitted with the petition, ██████ claimed that "[t]here were artistic exhibitions of [the beneficiary's] climbing peaks, on radio and TV: one of the cassettes (Exhibit VI) was broadcast by CNN in 1999." Although this criterion applies to visual artists, we could consider such materials as comparable evidence of the beneficiary's eligibility pursuant to 8 C.F.R. § 204.5(h)(4). However, the petitioner did not submit a copy of the CNN broadcast or evidence of any other radio or television coverage of his expeditions. Accordingly, the beneficiary does not meet this criterion.

*(viii) Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.*

The record indicates that the beneficiary is 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 the beneficiary has performed in a leading or critical role for either organization in a manner reflective of sustained national or international acclaim. Accordingly, the beneficiary does not meet this criterion.

*(ix) Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.*

The submitted copy of the beneficiary's federal income tax return shows that he had an adjusted gross income of \$900 in 2002. On the Form I-290B counsel states "CIS didn't take into account that Beneficiary could reach higher salary and commercial success ONLY participating and preparing for climbing expeditions (he can't do it now, at his P-1 status.)" (emphasis in original). In his letter submitted on appeal, ██████ explains that "due to [the beneficiary's] uncertain status (and long immigration procedure of its extension), he couldn't be employed on a stable contract; that's why he could show only one W-2 (occasional earning); no doubt, if he had had permanent employment authorization, he could have been employed and paid, as he deserved by his class [sic]." The record indicates that the beneficiary entered the United States on August 28, 2001 in P-1 nonimmigrant status, less than two years before his petition was filed. Although the beneficiary may not have been able to command a high salary in his field in the United States, the petitioner submitted no evidence that the beneficiary ever received remuneration significantly higher than other mountaineers or alpine instructors, or comparable to such individuals at the very top of their field, in Georgia. Accordingly, the beneficiary does not meet this criterion.

An immigrant visa will be granted to an alien under section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), only if the alien can establish extraordinary ability through extensive documentation of sustained national or international acclaim demonstrating that the alien has risen to the very top of his or her field. The evidence in this case indicates that the beneficiary is a mountaineer and alpine instructor who has climbed Mount Everest and "America 500." However, the record does not establish that the beneficiary has achieved sustained national or international acclaim placing him at the very top of his field. He is thus ineligible for classification as an alien with extraordinary ability pursuant to section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), and his 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.