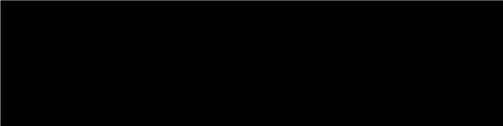


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FILE:

[Redacted]  
EAC 05 065 50851

Office: VERMONT SERVICE CENTER

Date: **DEC 16 2005**

IN RE:

Petitioner: [Redacted]  
Beneficiary: [Redacted]

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, 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. 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.

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.

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 she has earned sustained national or international acclaim at the very top level.

This petition, filed on December 20, 2004, seeks to classify the petitioner as an alien with extraordinary ability as a Taekwondo teacher. The statute and regulations require the petitioner's acclaim to be sustained. The record reflects that the petitioner has been residing in the United States since October 28, 2000. 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 her 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, international recognized award). Barring the alien's receipt of such an award, the regulation 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 the following:

1. "Certificate of Honor" from the "National Physical Educational and Wushu Sports Regulation Center" stating that the petitioner "achieved outstanding grade in the field of Tae Kwon Do Teaching" (1995)
2. Certificate from the "Sports and Physical Education Association of the People's Republic of China" stating that the petitioner was "appraised as the Outstanding National Athlete in 1989"
3. "Certificate of Honor" dated "December 30, 2000" from the "Compiling Commission of China Reformation and Development Series" stating that the petitioner was "awarded the title of Excellent Talent of New Century . . . due to his outstanding efforts and contribution to society and profession"
4. "Certificate of Award" from the "People's Republic of China Committee of Sports" stating that the petitioner "won the Second Prize of Adult group Tae Kwon Do in National martial art view and intercourse competition in 1997"
5. "Certificate of Honor" from the "People's Government of Beijing City" stating that the petitioner was recognized as a "single sport active individual" (1995)
6. "Honor Certificate" from the "China World Martial Arts Competition & Communication Center" stating that the petitioner won the "'Jiuling Cup' Ten Best Martial Arts Award" (1990)

Pursuant to 8 C.F.R. § 103.2(b)(3), any document containing foreign language submitted to Citizenship and Immigration Services (CIS) shall be accompanied by a full English language translation that the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. The translations accompanying the petitioner's award certificates were not certified as required by the regulation.

The petitioner also submitted what are alleged to be results showing that she placed third at both the "National Tae Kwon Do Championship Contest" in 2000 and the "5<sup>th</sup> City Sports Affair Awards" (date not provided). Interestingly, none of the certificates in items 1 through 6 above correspond to these two sporting events. The petitioner offers no explanation regarding the omission of first-hand evidence of her awards from these two events. We further note that the petitioner's third place at the "5<sup>th</sup> City Sports Affair Awards" is reflective of local recognition rather than national recognition.

In regard to item 3, we note that the English language translation of this certificate refers to the petitioner as a male although the petitioner is a female. We further note that this certificate was allegedly issued in China on December 30, 2000. The petitioner, however, had been residing in the U.S. since October 28, 2000. The petitioner has not resolved these two discrepancies. 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). Doubt cast on any aspect of the

petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition.

In regard to items 4 and 6, we note that large-scale competitions typically issue event programs listing the order of events and the names of the participating athletes. At a competition's conclusion, results are usually provided indicating how each participant performed in relation to the other competitors in his or her events. The petitioner, however, has provided no evidence of the official comprehensive results for the competitions for which she submitted award certificates.

In regard to item 5, we find that this award reflects local recognition rather than national recognition.

In regard to items 1 through 6, the petitioner has not submitted evidence showing the degree of recognition accorded to her awards. The evidence submitted by the petitioner does not indicate the total number of certificates distributed, the criteria used in determining recipients, or the level of publicity associated with the award presentations. We note here that section 203(b)(1)(A)(i) of the Act requires extensive documentation of sustained national or international acclaim. Pursuant to the statute, the petitioner must provide adequate evidence showing that the certificates presented under this criterion enjoy significant national or international stature. Simply alleging that an award is nationally recognized cannot suffice to satisfy this criterion. In this case, the record includes no documentation from the awarding entities or the print media to establish that the petitioner's awards are nationally recognized awards for excellence.

*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.*

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 what is alleged to be her "Membership Certificate" for the "China Martial Art Discussion Association" (CMADA). The membership certificate lists the petitioner's age as "30" and an issuance date of "April 2, 1998." We note, however, that the petitioner was born on June 9, 1968. On April 2, 1998, the certificate's issue date, the petitioner would have been age 29 not age 30. The petitioner has not resolved this discrepancy. *See Matter of Ho* at 582, 591-92.

Nevertheless, the record includes no evidence of the membership bylaws or the official admission requirements for the CMADA. There is no evidence demonstrating that admission to membership in the

CMADA required outstanding achievement or that the petitioner was evaluated by national or international experts in consideration of her admission to membership.

*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.<sup>1</sup>

The petitioner submitted a certificate stating that her biographical sketch was included in *A Dictionary of Contemporary Chinese Martial Artists*. The record, however, includes no evidence of the actual published material about the petitioner appearing in this publication. The plain wording of this criterion requires the petitioner to submit "published material about the alien" and evidence of "the title, date, and author of the material, and any necessary translation." The record includes no such evidence.

The petitioner also submitted articles allegedly published in the *Beijing Evening Newspaper* (February 10, 1998, the *Beijing Daily Newspaper* in (October 22, 1995), and an unnamed publication (August 28, 1995). The translations accompanying these articles were not certified as required by the regulation at 8 C.F.R. § 103.2(b)(3). Further, there is no evidence showing that these publications have substantial national readership or that the petitioner has been the subject of media coverage in the U.S. or China subsequent to 2000. In this case, we find no evidence to demonstrate that the petitioner has earned sustained acclaim in the national media of China or the U.S.

*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 she performed a leading or critical role for an organization or establishment with a distinguished reputation, the petitioner must establish the nature of her role within the entire organization or establishment and the reputation of the organization or establishment.

The petitioner submitted a "Certificate of Employment" from the Qing Island Ximen Literature and Arts Development Corporation stating that it appointed the petitioner to be its "director, martial art designer" in 1996. This document includes no address, phone number, or any other information regarding how this corporation may be contacted. Nevertheless, it has not been shown that this organization has earned a

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<sup>1</sup> 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.

distinguished reputation at the national or international level. Nor has the petitioner submitted evidence showing her specific responsibilities for the corporation and her individual importance to its overall success. We find the evidence is not adequate to demonstrate that the petitioner has performed in a leading or critical role for a distinguished organization, or that her involvement has earned her sustained national or international acclaim.

In this case, the petitioner has failed to demonstrate that she meets at least three of the criteria that must be satisfied to establish the sustained 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 herself to such an extent that she may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of her field. The evidence is not persuasive that the petitioner's achievements set her significantly above almost all others in her field at a 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.

Beyond the decision of the director, the regulation at 8 C.F.R. § 204.5(h)(5) requires "clear evidence that the alien is coming to the United States to continue work in the area of expertise. Such evidence may include letter(s) from prospective employer(s), evidence of prearranged commitments such as contracts, or a statement from the beneficiary detailing plans on how he or she intends to continue his or her work in the United States." The record contains no such evidence.

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 proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

**ORDER:** The appeal is dismissed.