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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

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[redacted]

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: AUG 2 5 2009
LIN 07 101 53500

IN RE: Petitioner:
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:

[redacted]

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center. The petition 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. More specifically, the director found that the petitioner had failed to demonstrate receipt of a major, internationally recognized award, or that he meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3).

On appeal, counsel for the petitioner argues that the petitioner meets the statutory requirements and at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3).

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.

U.S. Citizenship and Immigration Services (USCIS) and the 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, 60898-9 (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 has 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 21, 2007, seeks to classify the petitioner as an alien with extraordinary ability as a karate-do trainer. The regulation at 8 C.F.R. § 204.5(h) requires the beneficiary to "continue work in the area of expertise." The petitioner intends to work as a trainer in the United States. While a karate practitioner and a karate trainer or coach certainly share knowledge of karate, the two rely on very different sets of basic skills. Thus, competitive karate and training 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. Nevertheless, this office has recognized that there exists a nexus between playing and coaching or training in a given sport. To assume that every extraordinary athlete's area of expertise includes training or coaching, however, would be too speculative. To resolve this issue, the following balance is appropriate. In a case where an alien has clearly achieved national or international acclaim as an athlete and has sustained that acclaim in the field of coaching or training at a national level, we can consider the totality of the evidence as establishing an overall pattern of sustained acclaim and extraordinary ability such that we can conclude that coaching or training is within the petitioner's area of expertise. Specifically, in such a case we will consider the level at which the alien acts as a trainer or coach. A trainer or coach who has an established successful history of training or coaching athletes who compete regularly at the national level has a credible claim; a coach of novices does not. Thus, we will examine whether the petitioner has demonstrated his extraordinary ability as a trainer or as an athlete. If the petitioner has demonstrated extraordinary ability as an athlete, we will consider the level at which he has successfully trained or coached.

Evidence in the record indicates that the petitioner was the beneficiary of a previously approved petition as an alien with extraordinary ability under section 101(a)(15)(O)(i) of the Act, 8 U.S.C. § 1101(a)(15)(O)(i). While USCIS has approved an O-1 nonimmigrant visa petition filed on behalf of the beneficiary, that prior approval does not preclude USCIS from denying an immigrant visa petition based on a different, if similarly phrased standard. It must be noted that many I-140 immigrant petitions are denied after USCIS approves prior nonimmigrant petitions. *See, e.g., Q Data Consulting, Inc. v. INS*, 293 F. Supp. 2d 25 (D.D.C. 2003); *IKEA US v. US Dept. of Justice*, 48 F. Supp. 2d 22 (D.D.C. 1999); *Fedin Brothers Co. Ltd. v. Sava*, 724 F. Supp. 1103 (E.D.N.Y. 1989). Because USCIS spends less time reviewing I-129 nonimmigrant petitions than I-140 immigrant petitions, some nonimmigrant petitions are simply approved in error. *Q Data Consulting, Inc. v. INS*, 293 F. Supp. 2d at 29-30; *see also Texas A&M Univ. v. Upchurch*, 99 Fed.

Appx. 556, 2004 WL 1240482 (5th Cir. 2004) (finding that prior approvals do not preclude USCIS from denying an extension of the original visa based on a reassessment of the beneficiary's qualifications).

The AAO is not required to approve applications or petitions where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. *See, e.g., Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm. 1988). It would be absurd to suggest that USCIS or any agency must treat acknowledged errors as binding precedent. *Sussex Engg. Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987), *cert. denied*, 485 U.S. 1008 (1988).

Furthermore, the AAO's authority over the service centers is comparable to the relationship between a court of appeals and a district court. Even if a service center director has approved a nonimmigrant petition on behalf of the beneficiary, the AAO would not be bound to follow the contradictory decision of a service center. *Louisiana Philharmonic Orchestra v. INS*, 2000 WL 282785 (E.D. La.), *aff'd*, 248 F.3d 1139 (5th Cir. 2001), *cert. denied*, 122 S.Ct. 51 (2001).

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). 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. A petitioner, however, cannot establish eligibility for this classification merely by submitting evidence that simply relates to at least three of the criteria outlined in 8 C.F.R. § 204.5(h)(3). In determining whether the petitioner meets a specific criterion, the evidence itself must be evaluated in terms of whether it is indicative of or consistent with sustained national or international acclaim. 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).

The petitioner has submitted evidence that, he claims, meets the following criteria under 8 C.F.R. § 204.5(h)(3).[1]

> *Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.*

The petitioner provided copies of articles and pictures from newspapers or similar media that purport to show tournaments that he won. The translations provided are summaries of the articles, and do not identify a translator or contain a certification that the translations are complete and accurate and that the translator is competent to translate from Spanish into English. The documents therefore do not comply with the terms of 8 C.F.R. § 103.2(b)(3), which provides:

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

> *Translations.* Any document containing foreign language submitted to [USCIS] shall be accompanied by a full English language translation which 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.

Accordingly, the evidence is not probative and will not be accorded any weight in this proceeding.

The petitioner also provided copies of a certificate and an identification card indicating that he held the grade of 7 Dan in the World Karate Federation. The petitioner submitted a copy of a "Certificate of Excellence" certifying that he had "demonstrated an understanding of the way of KARATE," and a copy of a certificate indicating that he participated in the Sixth World Union of Karate-do Organizations Congress and Championships from November 23 to November 29, 1982, held in Taipei and Taichung, China. Neither of these certificates indicated that the petitioner had won an award or prize. The petitioner also submitted copies of a certificate indicating that he had participated in the "world referees' Course" from November 23 to November 25, 1982 and a November 25, 1982 "Diploma of World Judge," both from the World Union Karatedo Organisations (WUKO). The petitioner submitted a copy of what purports to be an August 23, 1979 diploma from the Pan American Karate Union indicating that he was recognized as a "Capable judge" by the union. However, the translation accompanying this document does not comply with the provisions of 8 C.F.R. § 103.2(b)(3) in that the translator is not identified, and the translation does not contain a certification that the translation was complete and accurate and that the translator is competent to translate from Spanish into English. Because the petitioner failed to submit certified translations of the document, the AAO cannot determine whether the evidence supports the petitioner's claims, and it will not be accorded any weight. Further, the documents do not reflect that the petitioner received an award or prize.

The petitioner submitted what counsel refers to as national and international recognition, which consists of copies of certificates and photographs of plaques thanking the petitioner for his efforts and services, including a December 15, 1991 "certificate of recognition" from Kenko Dojo recognizing the petitioner for his "support given to [the] organization during the year 1991 as a seminar instructor," and an August 7, 2004 certificate thanking him for his "teachings" at the "First Seminar of Nihon Koden Shindo RYU Karate Do" at the Garden State Shindo RYU. The translations accompanying the documents written in Spanish do not identify the translator, and do not contain certifications that the translations are complete and accurate or that the translator is competent to translate the documents. *See id.* Therefore, they have no probative value and will not be considered in this proceeding. As with his other documentation submitted in support of this criterion, the petitioner submitted nothing to establish that these certificates or plaques are prizes or awards.

In a request for evidence (RFE) dated July 15, 2008, the director advised the petitioner that "the submitted materials do not establish that the prizes or awards meet the requisite standard of national or international recognition" in the petitioner's field of endeavor. In response, the petitioner submitted a copy of a June 22, 1999 certificate indicating that he had been granted the

rank of "7th Degree Black Belt" and the "status of Overseas Grand Master" by the Nihon Koden Shindo-Ryu Karate. The petitioner, however, submitted no documentation to establish that the 7th Degree Black Belt is an award or prize or that it is nationally or internationally recognized as an award or prize for excellence in his field.

On appeal, the petitioner submitted a September 22, 2008 letter from the Panamerican Karate Federation, which confirms that:

> [The petitioner] has been awarded 7th Dan grade . . . based on his achievements and years of dedication to the teaching, development and promotion of karate world wide.
>
> The 7th Dan is awarded by the president of the World Karate Federation (WKF) and requires outstanding achievements of those for whom application has been requested to the WKF, as judged by recognized international experts in the field of karate.
>
> In the karate system all grades up to 5th Dan are obtained through rigorous examination, while grades beyond 5th Dan are obtained through merits justifying the grade.

The letter, signed by President of the Panamerican Karate Federation, quotes from what he states is Article 7 of the WKF Rules and Regulations: "For each individual application for 6th Dan Grade and upwards, the applying National Federation will have to enclose a dossier where the merits justifying the said application are substantiated."

The evidence does not establish that the "award" of a black belt degree by the WKF is an award or prize within the meaning of the statute and regulation. An application must be made on behalf of the individual seeking a Dan grade above the 5th level, whose achievements are then evaluated by a committee to determine if he qualifies for advancement to the next level. This is more akin to a promotion than an award or prize. The evidence does not establish that the award of a 7th Dan level by the WKF is an award or prize for excellence in the petitioner's field of endeavor.

The petitioner submitted letters from several individuals who stated that those who were trained by the petitioner have worn numerous medals. For example, in a December 18, 2006 letter, Mr. stated that the petitioner's students won medals in the Pan-American championships in Guatemala, Honduras, and Brazil. , who stated that he used to be a part of the National Karate-Do Federation, stated in a November 15, 2006 letter that the petitioner's students won in WUKO and Pan-American Union of Karatedo Organizations (PUKO) competitions. president of the All America Karate-Do Hoshimon Shorin Ryu Federation, also stated in an October 23, 2006 letter that the petitioner's students had won in WKF, PUKO and WUKO competitions. However, the petitioner submitted no official documentation from any of these organizations confirming the results indicated in the letters.

In a July 23, 2008 letter, submitted in response to the RFE, the New England Karate-do Association (NEKA) stated that under the petitioner's training, "NEKA members have always placed in the Top Ten of the Nation, bringing countless awards to our region." The petitioner submitted documentation indicating that in 2008, the NEKA team won 20 medals in the USA National Karate-do Federation National Championships. However, as this competition was held after the filing date of the petition, it and its results are not evidence of the petitioner's eligibility under this criterion. A petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date after the petitioner or beneficiary becomes eligible under a new set of facts. 8 C.F.R. §§ 103.2(b)(1) and (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971). The petitioner submitted no documentation to corroborate that the NEKA team won national awards prior to February 21, 2007, the filing date of the petition.

Accordingly, the petitioner has failed to establish that he meets 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.*

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 work 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. The overall prestige of a given association is not determinative. The issue is membership requirements rather than the association's overall reputation.

The petitioner did not initially allege that he meets this criterion. In response to the RFE, however, counsel alleged that the petitioner meets this criterion based on his membership in the WUKO, the WKF and the Panamerican Karatedo Federation. We note that in his résumé, the petitioner identified his only organizational membership as the Federacion Dominicana de Karate, which he stated he founded. The petitioner submitted what appears to be a page from the June 1, 1979 member list of the WUKO that apparently included the Federacion Dominicana de Karate-do and a copy of a May 31, 1977 letter from the president of the WUKO certifying that the Nihon Koden Shindo Ryu Karate-do, with the petitioner as the president, was an official member of the WUKO and PUKO. The petitioner submitted no documentation of his membership in either the WUKO or the PUKO subsequent to these dates.

As noted previously, the petitioner provided copies of a certificate and an identification card from the WKF indicating that he had achieved the rank of 7th Dan, that he had completed a judge course with the WUKO, and was named as a "capable judge" with the Pan-American Karate Union. Also as previously noted, the translation accompanying the latter certificate does not comply with the provisions of 8 C.F.R. § 103.2(b)(3), in that it does not identify the translator

and does not contain a certification as to the translator's abilities or that the translation is complete and accurate. As such, it has no probative value in this proceeding.

In response to the RFE, the petitioner submitted an April 15, 2007 certificate indicating that the United States of America National Karate-do Federation (USA-NKF) recognized him as a Kumite Judge B, and a July 23, 2008 letter from the New England Karate-do Association, Inc., indicating that the petitioner was a founding member of the organization in 2002 and had been a member since that date. We note that the certificate does not specifically state that the petitioner was a member of the USA-NKF.

Furthermore, the petitioner submitted no documentation regarding the membership requirements of these organizations and no evidence that any of these organizations require outstanding achievements of their members, as judged by recognized national or international experts in their fields.

On appeal, counsel asserts that the petitioner's award of the 7th Dan is also evidence of this criterion. However, according to the petitioner's evidence, he holds this degree with the WKF. There is no evidence that the holders of a 7th Dan degree have a separate organization within the WKF. The evidence does not establish that the WKF requires outstanding achievements as a condition of membership in the organization.

The petitioner has failed to establish that he meets this criterion.

> *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.*

In order to meet this criterion, published material must be primarily about the petitioner and be printed in professional or major trade publications or other major media. To qualify as major media, the publication should have significant national distribution and be published in a predominant language. Some newspapers, such as *The New York Times*, nominally serve a particular locality but would qualify as major media because of a significant national distribution.

The petitioner submitted a copy of an article about himself from the online user-edited encyclopedia *Wikipedia*. Information included on *Wikipedia* does not amount to published material about the alien as it does not include the information required by the regulation including the date, the author's name, or information about the publication so as to qualify it as a professional or major trade publication or other form of major media.

The petitioner also submitted copies of several documents from what counsel describes as articles about the petitioner in national and international newspapers and magazines and books. None of the articles provided by the petitioner are accompanied by full translations, identify the

translator, or contain certifications that the translator is competent to translate from the foreign language to English or that the translation is complete and accurate. Because the petitioner failed to submit complete and certified translations of the documents, the AAO cannot determine whether the evidence supports the petitioner's claims. *See* 8 C.F.R. § 103.2(b)(3). Accordingly, the evidence is not probative and will not be accorded any weight in this proceeding.

In his RFE, the director advised the petitioner of the requirements of the regulation as discussed above. He also advised the petitioner that the evidence submitted in support of this criterion also appeared to be "very dated" and therefore brings into question whether the petitioner enjoyed sustained acclaim. In his August 4, 2008 letter forwarding the petitioner's response to the RFE, counsel stated that there was "[n]o additional evidence available."

On appeal, counsel asserts that this criterion "does not require that there be articles for every event in a professional's career." Nonetheless, the Act at section 203(b)(1)(A)(i) requires the alien to demonstrate sustained national or international acclaim. The ten regulatory criteria are designed to assist the alien in documenting the sustained acclaim required by the Act. The petitioner submitted no documentation in support of this criterion later than 1999. The lack of media coverage of the petitioner subsequent to that date is not consistent with a claim of sustained national or international acclaim. Further, the petitioner failed to submit certified translations of the articles submitted.

Accordingly, the petitioner has failed to establish that he meets this criterion.

> *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 petitioner submitted a copy of a November 25, 1982 certificate indicating that he had been awarded a "Diploma of World Judge" by the WUKO and a copy of a certificate indicating that he had participated in the World Referees' Course sponsored by the WUKO. The petitioner also submitted a document purportedly presented to the petitioner by the Pan-American Karate Federation apparently for an International Trainers and Judges Course held from August 10 to August 22, 1979, a copy of what purports to be an August 23, 1979 diploma recognizing the petitioner as a "Capable judge" by the Pan-American Karate Union, a copy of what purports to be a June 20, 1982 diploma from the State Secretary of Sport, Physical Education and Recreation, Santo Domingo, accrediting him as a national karate-do arbitrator 'A', none of which is accompanied by a translation that comports with the requirements of the regulation at 8 C.F.R. § 103.2(b)(3), in that the translator is not identified, there is no certification that the translation is complete and accurate or that the translator is competent to translate from the foreign language into English. Accordingly, these documents are not probative and are not accorded any weight in this proceeding. Additionally, the petitioner submitted no documentation that he actually served as a judge in any competition or any other capacity.

In response to the RFE, counsel asserted that the petitioner submitted evidence that he served as "a World Judge of World Union of Karatedo Organization competitions in 1982" and as a referee in the 1982 Pan-American Games. However, the record does not contain such evidence. The petitioner also submitted an April 15, 2007 certificate from the USA-NKF recognizing him as a Kumite Judge B. However, the certificate is dated after the filing date of the petition and therefore it cannot serve to establish that he meets this criterion. The petitioner must establish eligibility at the time of filing. 8 C.F.R. §§ 103.2(b)(1) and (12); *Matter of Katigbak*, 14 I&N Dec. at 49. Further, the petitioner again failed to submit documentation that he actually served as a judge of the work of others.

Assuming, however, that the petitioner had submitted sufficient evidence of his participation as a judge and referee in 1982, he submitted no documentation of any such activity prior to that date, or between 1982 and February 21, 2007, the date he filed his petition. Thus, according to counsel, prior to the filing of his petition, the petitioner acted as a judge in only a single year. Such a limited participation is inconsistent with a claim of sustained national or international acclaim. On appeal counsel asserts that the regulation "does not require that the petitioner establish that each criterion be an act of extraordinary ability, but that the petitioner provide evidence that he has met at least [three criteria] to determine if the petitioner[er] has 'extraordinary ability' in his field."

As previously discussed, however, a petitioner cannot establish eligibility for this classification by submitting evidence that simply relates to at least three of the criteria outlined in 8 C.F.R. § 204.5(h)(3). The evidence must be evaluated in terms of whether it is indicative of or consistent with sustained national or international acclaim. 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).

The petitioner has failed to establish that he meets this criterion.

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

The petitioner claims to meet this criterion based on his authorship of two books, one published in 1981 and the other in 2004. In response to the RFE, counsel asserts that in his first book, the petitioner developed "a unique kata (form)," which "shows the uses of the elbow." Counsel alleges that "[t]his kata had a great impact in the world of Karatedo because it is the only existing kata that shows all the ways of attack and defense with elbows." Nothing in the record supports counsel's assertions regarding the impact of the petitioner's book on karate-do. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

Counsel alleged that in his second book, the petitioner "discusses how the law of physics plays an important role in day to day practices, and how practitioners should abandon strength and force in their practices and substitute it with speed in their movements." Counsel further asserted that "[t]he material in this book is unique" and references the introduction by , a "karate practitioner and lawyer." However, "unique" material is not the equivalent of the material making a contribution of major significance to the petitioner's field of endeavor.

On appeal, the petitioner submits a September 29, 2008 letter from who states that "five experts in the technical committee of the Panamerican Karate Federation" evaluated the petitioner's books. With the first book, according to , "it [was] the intention of this committee to recommend this book to all countries, in the American continent, affiliated to the Panamerican Karate Federation." With regards to the second book, states that the book was "accepted in this committee as a necessary guide for all continental karate practitioners to improve their training skills to a maximum level." The petitioner submitted no documentation to corroborate any of statements. We note that in his December 18, 2006 letter, stated that he was "aware" of the petitioner's books. Although he also stated that the books "contribute to the general development and promotion of Karate," he did not state how they did so. The record does not reflect that the federation recommended the petitioner's books or otherwise required them to be used as training guides.

The petitioner also submitted letters from several individuals who attest to his skills as a karate practitioner and trainer. However, none attest that the petitioner has made a contribution of major significance to his field. While , in his November 9, 2006, who identified himself as professor with a PhD in Martial Science, stated that he had read the petitioner's books, he did not indicate they were of major significance to the petitioner's field or that he used them in his own training.

The petitioner has failed to establish that he meets this criterion.

> *Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.*

The petitioner submitted copies of what he stated are articles that he wrote that were published in various media in 1974, 1975, 1981, 1986, and 2000. However, the translations accompanying these documents, as with others provided by the petitioner, are not in compliance with the regulation at 8 C.F.R. § 103.2(b)(3), in that they are only summaries of the documents, the translator is not identified and there is no certification as to the translator's qualifications or that the translation is complete and accurate.

The petitioner also submitted a copy of his book, *The Physics of Karate-do* and documentation that he had written another book, *Nihon Koden Shindo Ryu*. In denying the petition, the director stated: "Book publication is not automatically evidence of significant contributions; the karate-do community's reaction to those books must also be taken into account. The record lacks

evidence that the petitioner has published literature or research that has been extensively cited or otherwise recognized by the karate-do community."

On appeal, counsel again asserts that it is only necessary for the petitioner to show that he has authored scholarly articles in his field and that it "can not be refuted that the authored work of [the petitioner] is scholarly inasmuch as it provides students of Karate-Do with new "kata" and an understanding of Karate-Do."

We again emphasize that the purpose of the criteria outlined in the regulation at 8 C.F.R. § 204.5(h)(3) is to assist the petitioner in establishing eligibility as an alien of extraordinary ability. If the alien was required to submit only some evidence that falls within a particular criterion, regardless of the quality, quantity or timeliness of the evidence, it would render the term "extraordinary ability," defined at 8 C.F.R. § 204.5(h)(2) 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," meaningless. As noted by the director, publication alone is not automatically evidence of sustained acclaim; we must consider the karate community's reaction to those publications.

As discussed above, although [redacted] stated that committees of the Panamerican Karate Federation favorably evaluated the petitioner's books, the petitioner submitted no documentation of their use by practitioners in the field of karate. The evidence of record does not corroborate that the petitioner's books had a significant impact on karate-do.

The petitioner has failed to establish that he meets this criterion.

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

According to counsel's August 4, 2008 letter, the petitioner claims to meet this criterion based on his participation in various tournaments and his participation as a judge and referee in 1982. On appeal, counsel also asserts that the petitioner meets this criterion based on the accomplishment of his students at various karate-do exhibitions and events.

As the director correctly noted, the plain language of this regulatory criterion indicates that it applies to visual artists (such as sculptors and painters) rather than to karate practitioners and trainers or coaches such as the petitioner. The ten criteria in the regulations are designed to cover different areas; not every criterion will apply to every occupation. The petitioner and his students' participation in national and international karate competitions have previously been addressed under the awards criterion at 8 C.F.R. § 204.5(h)(3)(i). Virtually every athlete "displays" his or her work in the sense of competing in front of an audience. Accordingly, the petitioner has not established that he meets this criterion.

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

To meet this criterion, the petitioner must show that he performed a leading or critical role for an organization or establishment and that the organization or establishment has a distinguished reputation.

The petitioner claims to meet this criterion based on his performing as a judge in the 1982 World Judge of WUKO and as a referee in the 1982 Pan-American Championship. As previously discussed, the petitioner submitted no documentation to establish that he actually judged or refereed any competitions. Further, the petitioner submitted no documentation to establish that the WUKO or the Pan-American Championships are organizations or establishments with distinguished reputations.

The petitioner also claims to meet this criterion based on his association with the NEKA. The petitioner submitted a copy of his December 13, 2006 contract with the NEKA, in which he agreed to train the NEKA team for participation in the USA National Karate-do Federation National Championships, the US Open International Championship and the 2012 Olympics. The petitioner submitted no documentation to establish that his position as a trainer was in a leading or critical role for the NEKA. The letterhead for the organization identified the petitioner as the technical committee chair and team trainer. However, the petitioner submitted no documentation of other karate trainers employed by the organization or the significance of the technical committee. Further, the petitioner submitted no documentation to establish that the NEKA is an organization with a distinguished reputation.

In its July 23, 2008 letter submitted in response to the RFE, the NEKA stated that the petitioner had traveled from Santo Domingo each year since 2002 to train members of the karate team. As discussed previously, the NEKA stated that because of the petitioner's training, its members "have always placed in the Top Ten of the Nation, bringing countless awards to our region." The petitioner also submitted documentation indicating the NEKA team won 20 medals in the USA National Karate-do Federation National Championships in 2008. However, as this competition was held after the filing date of the petition, it and its results are not evidence of the petitioner's eligibility under this criterion. A petitioner must establish eligibility at the time of filing. 8 C.F.R. §§ 103.2(b)(1) and (12); *Matter of Katigbak*, 14 I&N Dec. at 49. The petitioner submitted no documentation to corroborate any competitions won by the NEKA team, especially prior to February 21, 2007, the filing date of the petition.

The NEKA indicated in its July 2008 letter that when the petitioner "retired from his career as an engineer, the NEKA decided to convince him to finally move permanently to the United States so that he could be fully in charge of the Technical Committee, and to maintain the association at its highest level of competitiveness." The more recent version of the association's letterhead does not identify the petitioner as the team trainer. The duties and responsibilities of the technical committee as it relates to the petitioner's stated area of expertise are unclear, and it is equally unclear that the petitioner has served in a leading or critical role for the NEKA. The evidence

submitted in response to the RFE did not establish that the NEKA is an organization with a distinguished reputation.

The petitioner submitted a copy of a July 18, 2008 letter from the President of the Nihon Koden Shindo Ryu Karate-Do Cuban Association in which he stated:

> [The petitioner] made possible the introduction of the style of karate in our country in the year 2001. We recognize him as the supreme authority at world-wide level in the Nihon Koden Shindo Ryu Karate-Do, and want to make notice that thanks to the many seminars received and his personal lessons, the competitive and technical level of our practitioners has risen extraordinarily. This has allowed students to be able to participate in all type[s] of events reaching high results that had been impossible without his guide. It is for this reason and many others that we want to catalog [the petitioner] as an indispensable requirement to obtain excellent results from the competitive or martial point of view.

The petitioner provided no evidence of the "extraordinary" results achieved by those he taught in this association and provided no documentation that the Nihon Koden Shindo Ryu Karate-Do Association from the Cuban Republic is an organization with a distinguished reputation.

The petitioner has failed to establish that he meets this criterion.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of his field of endeavor.

Review of the record, however, does not establish that the petitioner has distinguished himself as a karate trainer to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of his field. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the 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.