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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
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U.S. Citizenship
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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: JUL 29 2009
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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:

[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 that the petitioner had not established that he sought to enter the United States for the purpose of continuing in his area of expertise. The director further 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 December 17, 2007, seeks to classify the petitioner as an alien with extraordinary ability as a soccer player. The regulation at 8 C.F.R. § 204.5(h)(5) provides:

No offer of employment required. Neither an offer for employment in the United States nor a labor certification is required for this classification; however, the petition must be accompanied by 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.

On the Form I-140, Immigrant Petition for Alien Worker, the petitioner provided no information about his proposed employment in the United States. In her December 13, 2007 letter accompanying the petition, counsel asserted that the petitioner had “been approached by the Los Angeles Galaxy to gage [sic] his interest in signing a professional contract with the team.” The petitioner, however, submitted no documentation to corroborate the Galaxy soccer team’s interest in him as a soccer player. 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).

The petitioner submitted no documentation with the petition regarding his intent to play soccer in the United States. However, counsel stated that the petitioner had “established a sports management company focusing on soccer.” The petitioner submitted copies of the June 22, 2007 articles of incorporation and bylaws for Apache Sports Management, Inc., showing that he is the owner and sole officer of the corporation, which is engaged in “trade of services.”

In a June 6, 2008 request for evidence (RFE), the director instructed the petitioner to provide evidence to show how he will “continue to work as a soccer player at a level indicative of extraordinary ability.” The director also advised the petitioner that “the evidence should persuasively demonstrate” his “continued involvement in the field of endeavor.” In response, the petitioner submitted a copy of a July 8, 2008 letter from [REDACTED] of JMS Soccer. The letter indicated that the organization was interested in representing the petitioner and advised the petitioner that there was a “strong possibility” that he would “be able to obtain a position with an MLS team for the upcoming season.” The petitioner also submitted a copy of a June 24, 2008 letter from [REDACTED], an “executive” with World Marketing Group (WMG). [REDACTED] stated that WMG was “very interested in discussing opportunities” for the petitioner “to become a

marketing spokesperson for Hyundai and Kia automotive group[s].” The petitioner provided a July 10, 2008 “declaration,” in which he stated that he intended to continue playing professional soccer in the United States. The petitioner did not indicate in his declaration any attempts he had made to pursue his profession either prior to or subsequent to filing the petition.

In denying the petition, the director noted that the letters and statement submitted by the petitioner were subsequent to the filing date of the petition and, citing *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971), discounted this documentation as not relevant to the petitioner’s eligibility for this immigrant classification at the time he filed his petition. On appeal, counsel argues that *Matter of Katigbak* is inapplicable in this instance because it involves the petitioner’s intent and not a “clear requirement such as education or experience, which must have previously been completed and which can be identified.”

While counsel’s argument has some merit, the regulation requires the petition to be accompanied by clear “evidence that the alien is coming to the United States to continue work in the area of expertise.” The petitioner submitted no such documentation with his petition. Counsel asserted that the Los Angeles Galaxy, a professional soccer team, was interested in employing the petitioner. However, the petitioner submitted no documentation to corroborate this. Further, in his statement submitted in response to the director’s RFE, the petitioner provided no evidence of his prior efforts to obtain employment as a soccer player and provided no detailed plans on how he intended to continue his work in the United States as required by the regulation. Further, the letter from JMS Soccer indicates that the petitioner only sought representation from the company after he filed his petition. The petitioner’s manifestation of his intent to play soccer in the United States is vague and insubstantial. The petitioner has not provided clear evidence that he seeks to enter the United States to continue work in his area of expertise.

The evidence does not establish that the petitioner seeks to enter the United States for the purpose of continuing to work in his area of expertise.

The director also determined that the petitioner had failed to establish the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability. Counsel asserts that the director “never advised Petitioner that the evidence he presented to demonstrate his sustained national and international acclaim was in question.” Counsel further asserts that by failing to include this perceived deficiency in the RFE, “would lead a petitioner to believe that he had met the ‘sustained national or international acclaim’ standard,” and that this failure “violated the Service’s own regulation” and violated the petitioner’s due process.

The purpose of the RFE is to elicit further information that clarifies whether eligibility for the benefit sought has been established as of the time the petition is filed. *See* 8 C.F.R. §§ 103.2(b)(8) and (12). Even if the director committed a procedural error by failing to adequately notify the petitioner, it is not clear what remedy would be appropriate beyond the appeal process itself. As with any claim of a violation of due process, a violation of an immigration regulation will not render a decision unlawful unless the violation prejudiced the interests of the alien protected by the regulation. *United States v. Rangel-Gonzales*, 617 F.2d

529, 530 (9th Cir. 1980). Furthermore, we note that in visa petition proceedings, the burden is on the petitioner to establish eligibility for the benefit sought. See *Matter of Brantigan*, 11 I&N Dec. 493 (BIA 1966). The petitioner must prove by a preponderance of evidence that the beneficiary is fully qualified for the benefit sought. *Matter of Martinez*, 21 I. & N. Dec. 1035, 1036 (BIA 1997); *Matter of Patel*, 19 I&N Dec. 774 (BIA 1988); *Matter of Soo Hoo*, 11 I&N Dec. 151 (BIA 1965). The petitioner made no proffer as to other evidence available. Therefore, we will review the record as presented.

Counsel asserts that the petitioner was named to the Reuter's "Best 11" of the 2002 World Cup, and as such, is the recipient of a major, internationally recognized award. 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). Congress' example of a one-time achievement is a Nobel Prize. H.R. Rpt. 101-723, 59 (Sept. 19, 1990). Given that the House Report specifically cited to the Nobel Prize as an example of a one-time achievement, examples of one-time awards which enjoy major, international recognition may include the Pulitzer Prize, the Academy Award, a Wimbledon title (relevant for tennis players), and an Olympic Medal. The regulation is consistent with this legislative history, stating that a one-time achievement must be a *major, internationally recognized* award. 8 C.F.R. § 204.5(h)(3).

The petitioner submitted a copy of a page from the website *soccerphile.com*, which appears to have been retrieved from the Soccerphile World Cup 2002 archives. The page contains an entry indicating that journalists from the Reuters news agency had selected their "team of the first round," which included the petitioner. The petitioner also submitted information regarding Reuters from the company's website, which indicates that the company "is a global information company." However, the petitioner submitted no documentation such as major media coverage or other similar documentation to establish that being selected by journalists from Reuters as member of a first-round team at the Soccer World Cup is a major, internationally recognized award. In fact, the petitioner submitted no documentation to indicate that the selection constituted an award of any kind.

The petitioner has failed to establish that he is the recipient of 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.

As discussed above, the petitioner submitted documentation indicating that he was a member of the "team of the first round" selected by journalists from the Reuters news agency. As further discussed above, the petitioner submitted no documentation that selection by these journalists constitutes an award or prize.

The petitioner submitted a picture of a medal, which he identified as the "[redacted] of the 2002 Korea/Japan World Cup, and a copy of a trophy that he identified as the "Gold trophy in memory of 100th national game participated." Although the petitioner submitted a photocopy of a picture depicting what appears to be an awards ceremony, neither of the documents submitted indicates that the "Mang Ho Jang" medal or the Gold trophy was awarded to the petitioner.

The petitioner submitted documentation indicating that he received the following trophies: the 2002 Samsung Pavv K-League Grand Prix "Best 11," the Grand Prix of Toto Tigerpools "Best 11" presented by Sports Chosun on November 20, 2001, the 2002 Puma Stoo Professional Soccer "Best 11" presented by the Puma Korea and Sports Today, a 2002 Best Player, a 2003 Samsung Hauzen K-League Grand Prix as a member of the "Best 11," a 2003 "Best Defender," presented by Sports Seoul 21, a 2003 Golden Shoe and Golden Ball for best defender, a 2003 Puma All Star Team trophy awarded by the Korea Professional Football League, a 2004 Samsung Hauzen All Star Team, awarded by the Korea Professional Football League, and a November 21, 2005 Puma Special Award. The petitioner submitted no documentation to establish that the medal or any of the trophies he received is nationally or internationally recognized as a prize or award for excellence in his field of endeavor. The petitioner provided background information about the K-League, identified as the Korean Professional Football League, that was taken from *Wikipedia*, the online user-maintained encyclopedia and which indicates that the K-League "is South Korea's top-flight professional football league." With regard to information from *Wikipedia*, there are no assurances about the reliability of the content from this open, user-edited internet site.² See *Lamilem Badasa v. Michael Mukasey*, 540 F.3d

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

² Online content from *Wikipedia* is subject to the following general disclaimer:

WIKIPEDIA MAKES NO GUARANTEE OF VALIDITY Wikipedia is an online open-content collaborative encyclopedia, that is, a voluntary association of individuals and groups working to develop a common resource of human knowledge. The structure of the project allows anyone with an Internet connection to alter its content. Please be advised that nothing found here has necessarily been reviewed by people with the expertise required to provide you with complete, accurate or reliable information. . . . Wikipedia **cannot guarantee the validity of the information found here.** The content of any given article may recently have been changed,

909 (8th Cir. 2008). Accordingly, we will not assign weight to information for which *Wikipedia* is the only cited source.

The petitioner submitted a picture of another trophy; however, the annotation regarding the trophy is written in Korean and is not accompanied by an English translation. The regulation at 8 C.F.R. § 103.2(b)(3) requires that documents submitted in a foreign language “shall be accompanied by a full English 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.” Because the petitioner failed to submit certified translations of the document, the AAO cannot determine whether the evidence supports the petitioner's claims. Accordingly, the evidence is not probative and will not be accorded any weight in this proceeding.

The petitioner submitted a copy of a July 14, 2004 “certificate of award” for his “key contribution to the development of Korea Soccer and in great appreciation to enhance Korea’s reputation in Soccer by 100th appearance in ‘A’ Match.” The document indicates that it was awarded by the Korea Football Association and given to the petitioner as a member of the Korea National Team. The petitioner submitted no documentation to establish that this certificate is nationally or internationally recognized as a prize or award for excellence in his field.

The petitioner has not established 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 claims to meet this criterion based on his membership in the FIFA Century Club. According to counsel, members of this club “include only players who have played in 100 or more ‘A’ international for their countries,” and that the petitioner’s “consistent selection to the

vandalized or altered by someone whose opinion does not correspond with the state of knowledge in the relevant fields. [Emphasis in the original.]

See http://en.wikipedia.org/wiki/Wikipedia:General_disclaimer, accessed on July 15, 2009, a copy of which is incorporated into the record of proceeding.

Korean National Soccer Team demonstrates the high esteem in which [he] has been held by this highest authority in Korean soccer.” The petitioner submitted a list of names of men who have are members of the FIFA Century Club. A statement with the list indicates that FIFA recognizes only those matches “played within the FIFA World Cup™ (including preliminary competitions), continental competitions (including qualifiers), friendly matches between senior national teams and Olympic final and qualifying matches played up to and including 1956.” Thus, while it is certainly an achievement to play in 100 international matches, the documentation indicates that membership in the club is more a function of numbers than outstanding achievement. The petitioner’s evidence does not indicate that membership in the FIFA Century Club is judged by recognized national or international experts in their fields.

The evidence, however, sufficiently establishes that the petitioner was a member of the Korea National Team. Such teams are limited in the number of members and have a rigorous selection process. Accordingly, we find that the record sufficiently establishes that the petitioner 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 his player profile as a member of the 2002 World Cup that appeared on the website of the BBC. A player’s profile on a website that features information about all players is not about the petitioner or his work.

The petitioner provided a copy of an April 30, 2002 government press release announcing those who had been chosen members of the squad for the 2002 World Cup finals. The squad included the petitioner. However, the press release is not about the petitioner and the record does not indicate any media in which the release was published. Further, the underlying purpose of this criterion is to demonstrate that major media distributors consider the alien and his work worthy of coverage. A press release, even if it was about the petitioner, is not evidence that an independent journalist found the petitioner or his work worthy of media coverage.

The petitioner submitted copies of several articles that were about him or in which he was mentioned. However, none of the articles complied with the requirements of the regulation at 8 C.F.R. § 204.5(h)(3)(iii), in that they either do not identify the publication, do not contain the date of the publication or identify the author of the material. The petitioner also submitted copies

of documents identified by counsel as photographs of the petitioner in matches and events in major media. We cannot ignore that the statute requires the petitioner to submit “extensive documentation” of sustained national or international acclaim. *See* section 203(b)(1)(A) of the Act. Photographs by themselves do not meet this standard. Without proper supporting evidence to put the photographs in context, the petitioner is unable to demonstrate that the scope and significance of the events are depicted as alleged. Several of the photographs contain information in the Korean language; however, the petitioner failed to provide certified translations of the documents. Accordingly, they lack probative value in this proceeding. *See* 8 C.F.R. § 103.2(b)(3).

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.

Counsel alleges that evidence that the petitioner meets this criterion is shown through his receipt of several awards, including an award from “former Presidents and Novel [sic] Prize Winner, Mr. Dae Joong Kim,” an award from the president of the K-League, a service award from the K-League, awards for his development of Korea’s soccer, and an award from the Korea Amateur Sports Association of San Francisco.

The petitioner submitted documentation indicating that he had received several awards, including a “World Cup Special Award” on December 21, 2002 in recognition of his “key contribution to South Korea’s run to the semi-finals at Korea-Japan 2002 World Cup,” a July 14, 2004 “Certificate of Award” in recognition of his “key contribution to the development of Korea Soccer and in great appreciation to enhance Korea’s reputation in Soccer by [the] 100th appearance in ‘A’ Match,” a November 12, 2005 “Service Award” in appreciation of the petitioner’s 13 years of “outstanding performance” as a member of the Korea national Team “as well as key contribution to Korea’s semi-finals at [the] 2002 FIFA World Cup and development of Korea Soccer,” a December 28, 2005 “Service Award” by the Korea Professional Football League in appreciation of his “outstanding performance.” However, none of these awards indicate that the petitioner has made a contribution of major significance to his field of endeavor. The petitioner submitted no documentation to explain the nature of the “key contribution” that he made in helping to develop soccer in Korea.

The petitioner has failed to establish 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's evidence indicates that he played with the Chunnam Dragons and was a member of the Korea National Team. The petitioner submitted no documentation to establish that the Chunnam Dragons is an organization with a distinguished reputation. The evidence indicates that the 2002 Korea National Team competed in the 2002 Korea-Japan World Cup. However, the petitioner submitted no documentation of the success or reputation of the national team prior to or subsequent to their 2002 world cup competition. A single successful competitive year is not evidence by itself to establish that the Korea National Team has a distinguished reputation.

The petitioner received recognition for his performance during the 2002 FIFA World Cup competition and, as a member of the Korea National Team, served as a critical member of the team. However, as the petitioner has failed to establish that the Korea National Team enjoys a distinguished reputation, he has failed to establish that he meets this criterion.

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

The petitioner submitted a copy of a contract between himself and Chunnam Professional Football, Inc., allegedly dated March 25, 2003 for a contract period from January 1, 2002 to December 31, 2005. The contract indicates that the petitioner was to be paid 160,000,000 won for the period January 1, 2002 to March 31, 2003; 180,000,000 won from April 1, 2003 to December 31, 2003; 240,000,000 won in 2004 and 157,500,000 won in 2005. The translation includes a U.S. dollar exchange rate for the won. However, these exchange rates are not, and could not, have been a part of the contract as written. Therefore, the translator has added information to the document that was not included in the original. This raises questions as to the accuracy of the information provided in the translation. The petitioner submitted no documentation to verify the exchange rate provided by the translator. 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 petitioner also submitted a copy of a newspaper article reporting that the petitioner had entered into a deal with the Chunnam football club that would compensate him in the amount of 990,000,000 won, which would make him the "most highly compensated defender in Korean soccer history." The article indicated that the petitioner's "contract amount" was 300,000,000 won, and his "annual salary of 210,000,000 won" totaled 930,000,000 Won for three years. The article indicated that the petitioner received a "victory allowance of 3,500,000 won" and a "game allowance of 1,750,000 won." We note first that the document is not dated and contains no identification of the newspaper in which it appeared. Additionally, the numbers as translated do not add up and the translator, again, inserts information regarding the exchange rates that apparently is not part of the document translated. The petitioner submitted no documentation to corroborate the exchange rate included by the translator. *Id.*

Furthermore, although the newspaper article indicated that the petitioner would be the highest paid defender in Korean soccer history, the petitioner provided no documentation regarding

compensation paid to similar soccer players outside of Korea. Therefore, the documentation does not establish that the petitioner's compensation was significantly high relative to all others in his field.

The petitioner submitted copies of sponsorship contracts that he had with Nike and Puma. However, while the petitioner may have entered the sponsorship contracts because of his playing, these contracts are not part of his compensation package as a soccer player. Further, the petitioner submitted no documentation to indicate that his contracts to sponsor contracts compensated him at a rate significantly high relative to others in his field.

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. In this case, the petitioner has failed to demonstrate his receipt of a major, internationally recognized award, or that he meets at least three of the criteria at 8 C.F.R. § 204.5(h)(3). Additionally, the conclusion we reach by considering the evidence to meet each criterion separately is consistent with a review of the evidence in the aggregate. Even in the aggregate, the evidence does not distinguish the petitioner as one of the small percentage who has risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2).

The record reflects that the petitioner enjoyed an esteemed career as a soccer player; however, the record indicates that the petitioner retired from soccer in Korea in 2005, two years prior to the filing date of this petition, and does not reflect that he has played soccer since that time. Although counsel indicated that the Los Angeles Galaxy had approached the petitioner about playing for the team, the petitioner submitted no documentation of this, either with the petition or in any subsequent submissions. Additionally, although the petitioner submitted a letter from JMS Soccer indicating that the company was interested in representing him, the letter was dated well after the petition was filed and after the director's request for additional documentation. On appeal, the petitioner submits documentation indicating that several sports figures have returned from retirement and performed successfully. However, the petitioner has submitted no documentation that he is one of those individuals and has not submitted clear evidence of his intent to rejoin the sport as a player.

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.