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

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Petitioner:

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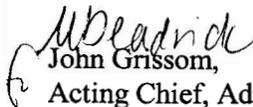
PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

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 Grissom,  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner seeks classification of the beneficiary 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 record did not establish that the beneficiary had achieved the sustained national or international acclaim required for classification as an alien of extraordinary ability. The director also found the petitioner had not established that he is one of that small percentage who have risen to the very top of his field of endeavor.

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

(1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with Extraordinary Ability. -- An alien is described in this subparagraph if --

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

U.S. Citizenship and Immigration Services (USCIS) and 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, 60898-99 (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 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). 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 January 31, 2007, seeks to classify the petitioner as an alien with extraordinary ability as a kickboxer. Initially, the petitioner submitted news articles, award certificates, pictures of awards, programs for different competitions, invitations to participate in kickboxing events, and competition results. In response to the February 15, 2007 Request for Evidence ("RFE"), the petitioner submitted his fighting license, news articles, information about the International Wushu Sanshou Competition, the International Wushu Federation ("IWUF") Constitution, information about the IWUF, information about the Sanshou World Cup, and pictures of the petitioner fighting and receiving awards. With his brief on appeal, the petitioner submitted his fight license, a

fight contract, information about a sponsoring organization, a certificate of appreciation, a certificate of participation, five award certificates, certificates of training, a tournament invitation, news articles, and tournament results.

The statute and regulations require that the petitioner seek to continue work in his area of expertise in the United States. *See* section 203(b)(1)(A)(ii) of the Act, 8 U.S.C. § 1153(b)(1)(A)(ii); 8 C.F.R. § 204.5(h)(5). 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 intends to continue his work in the United States. With his appellate brief, the petitioner submitted a copy of his professional license and a contract to participate in an event on June 29, 2007. The contract is dated May 1, 2007, which postdates the date of this petition. A petitioner must establish eligibility at the time of filing; a petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. 8 C.F.R. §§ 103.2(b)(1),(12); *Matter of Katigbak*, 14 I. & N. Dec. 45, 49 (Comm. 1971). Even if this contract had been entered into before the filing of this petition, it would be insufficient to show that the petitioner intended to continue his work in the United States as the contract is for a one time event and not a contract for continuing employment. Although the alien may self-petition for an employment-based immigrant pursuant to section 203(b)(1)(A) of the Act, 8 U.S.C. § 1153(b)(1)(A), the statute requires that the alien show that he will continue to work in his area of expertise in the United States. The petitioner here has provided insufficient evidence to establish that he will pursue kickboxing in the United States.

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 at 8 C.F.R. § 204.5(h)(3) 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 criteria at 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). We address the evidence submitted and counsel's contentions in the following discussion of the regulatory criteria relevant to the petitioner's case. The petitioner does not claim eligibility under any criteria not addressed below.

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

The petitioner submitted evidence showing that he won

petitioner also submitted a certificate of participation as the Arabian Championship for youth.

in the 2006-07 First

Although documentation of these various awards appears in the record, information such as the significance and national or international recognition of the competitions is notably absent. Except for the World Wushu Championship tournament, the petitioner submitted no background information about any of the other tournaments to evidence the tournaments' prestige or reputation within the kickboxing community. Some of the tournaments, such as the Republic Clubs Super Championship and the Republic Championship of Regions in the SANDA, seem to be regional in nature. Others, like the Sanshou World Cup which had only four competitors out of which the petitioner placed second, do not seem to be significant tournaments so would not convey acclaim especially for a finish other than first.

Counsel states in his brief on appeal that the petitioner is "a world champion for his weight category," but does not specify how the petitioner came by this title or how long ago it was awarded. Although articles appear in the record about the WWC documenting the petitioner's participation in the Championship in 1997, 1999, and 2001, the petitioner only won gold at the 1997 Championship. The petitioner presented no evidence showing that coming in second or third place as opposed to winning the weight category conveys any sort of acclaim. Moreover, the statute and regulations require that the petitioner's national or international acclaim be sustained. *See* section 203(b)(1)(A)(i) of the Act, 8 U.S.C. § 1153(b)(2)(A)(i); 8 C.F.R. § 204.5(h)(3). The petitioner presented no evidence that he won another major tournament after the 1999 championship and even if the other tournaments were shown to convey acclaim, the petitioner presented evidence that the last prize was won in August 2003, i.e. more than three years prior to the filing of this petition.

Finally, the petitioner submitted a certificate of participation and a tournament invitation letter evidencing that he coached youth competitors after his last win in 2005 as a competitive kickboxer. Although experience as an athlete is undoubtedly relevant to coaching or instructing the same sport, the two endeavors are not identical and an alien who seeks to enter the United States as a coach or instructor under the extraordinary ability immigrant classification cannot rely solely on prior acclaim as an athlete. While a competitive kickboxer and kickboxing instructor certainly share knowledge of the sport, the two rely on a different set of basic skills. Thus, competing as a kickboxer and instructing other kickboxers are not the same area of expertise.<sup>1</sup> In this instance, the record reflects that the sole award for which the petitioner has established international recognition, his gold at the WWC, was received in 1997, ten years prior to filing. Although the petitioner has demonstrated receipt of awards at several subsequent competitions, from the evidence provided, the record does not establish that these awards are internationally or nationally recognized prizes or awards. While we may also consider the level at which the petitioner has acted as an instructor, the record fails to demonstrate that any of the petitioner's students have won nationally or internationally recognized prizes or awards such that the petitioner's prior

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<sup>1</sup> While not binding precedent, we note that the reasoning contained in *Lee v. I.N.S.*, 237 F.Supp.2d 914, 918 (N.D.Ill. 2002), supports this interpretation:

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 instruct.

success as a competitive kickboxer can be said to have been sustained through his success as a coach. Accordingly, the petitioner has failed to establish his receipt of lesser national or internationally recognized prizes or awards in his field as well as the sustained acclaim required by section 203(b)(1)(A)(i) of the Act.

In light of the above, the petitioner has not established that he meets this criterion.

*(ii) Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.*

The petitioner claims eligibility under this criterion by virtue of his membership in the IWUF. In order to demonstrate that membership in an association meets this criterion, a petitioner must show that the association requires outstanding achievement for admission to membership. Membership requirements based on employment or activity in a given field, minimum education or experience, proficiency certifications, 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. Further, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association's overall reputation.

The IWUF Constitution states that membership is awarded to "Wushu governing bodies of all nations or regions" limited to only one per country or region which body is recognized by the National Olympic Committee or Sports Authority of that nation. The IWUF does not contain provisions for personal memberships for athletes, coaches, or judges of the sport and the petitioner provided no membership card or other evidence of individual membership in the IWUF. Even if he had presented a membership card, nothing in the IWUF Constitution indicates that outstanding achievement is a prerequisite to membership or that membership applications are judged by recognized experts in the field.

For the above stated reasons, the petitioner has not established that he meets this criterion.

*(iii) Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.*

In general, 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 level from a local publication. 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>2</sup>

The petitioner submitted a number of articles that mentioned him but do not focus on him or his achievements: an August 13, 1999 article entitled "Boxing and Kick Boxing Promise High Expectations," "12 'Kick Boxers'

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<sup>2</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, for instance, cannot serve to spread an individual's reputation outside of that county.

Represents Egypt in the Arab Tournament in Jordan” (mistakes in original), an October 17, 1999 article entitled “Egyptian Team Won Three Different Medals in the World Championship in Honk [sic] Kong,” “Team of Styles . . . A Specialized Expert Needed,” “The Kung Fu Team in the World Championship in Italy Today,” SANDA Wins Five Medals and Fourth Place ANF Styles are on the Way,” a February 11, 1999 article entitled “Jacky Chan Opens World Championship in Kung Fu,” an October 29, 1999 article entitled “In Hong Kong Today . . . Egyptian and Chinese Teams Prepare for the World Championship,” a July 18-24, 2002 article entitled “Everybody was kung fu fighting,” a December 23-29, 1999 article entitled “Our very own Bruce Lee,” a July 27, 2002 article entitled “China leads insanshou Cup,” an August 1, 2002 article entitled “Armed forces heroes . . . gains,” a July 3, 1997 article entitled “Egypt Dominates the First Arab Championship in the Kun [sic] Fu and Lebanon will Organize the Second Championship,” a November 19, 1999 article entitled “Kung Fu . . . In the African Championship in Algeria,” “SANDA Wins Five Medals and Fourth Place and Styles are on the Way,” an October 22, 2003 article entitled “Strict Egyptian Caution at the World Kung Fu Championship,” and “Egypt won Fourth Place in the Kung Fu World Championship.” The plain language of the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(iii) requires that the published material be about the alien. These articles are not primarily about the petitioner, but instead are about different events or even different people. In addition, the majority of these articles do not include a date or author’s name in violation of the plain language of this criterion.

The petitioner also submitted a number of articles or excerpts from articles that were primarily about him: an undated article titled [redacted] [the petitioner] [redacted] in *Al-Ahram* newspaper; “[the petitioner] [redacted] published in the April 1998 edition of *Al-Shabab*, a February 25, 2000 article entitled “[the petitioner] . . . [redacted]” (errors in original) published in the *Journal of El-Safer El-Riady*, an April 1998 article entitled “[the petitioner] [redacted] in *El Shabal*, an undated article entitled “[redacted] the petitioner [redacted] published in *El Ahram*, an undated article entitled “[redacted]” published in *Kalimatina Magazine*, and a March 21, 1999 article entitled “[redacted]” published in an unidentified periodical. Even though these articles are primarily about the petitioner, where a publication is even identified, the record contains no evidence such as the circulation of these publications, or any other evidence to establish that the sources of these articles are professional, major trade, or other major media publications. In addition, the information submitted about these articles does not comply with the express terms of this criterion as the record lacks the date and author of many of the articles. Finally, the translations of these articles do not comply with 8 C.F.R. § 103.2(b)(3), which requires a translation of the entire document rather than a translation of only excerpted portions of the articles. Without the complete information required by the criterion and a full translation of the articles, we cannot consider these articles in this proceeding.

In light of the above, the petitioner has not established that he meets this criterion.

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

The regulation at 8 C.F.R. § 204.5(h)(3) provides that “[a] petition for an alien of extraordinary ability must be accompanied by evidence that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise.” Evidence of the petitioner’s participation as a judge must be evaluated in terms of these requirements. The weight given to evidence submitted to fulfill the criterion at 8 C.F.R. § 204.5(h)(3)(iv), therefore, depends on the extent to which such evidence demonstrates,

reflects, or is consistent with sustained national or international acclaim at the very top of the alien's field of endeavor. A lower evidentiary standard would not be consistent with the regulatory definition of "extraordinary ability" as "a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). For example, judging a national competition for top athletes is of far greater probative value than judging a regional youth or amateur competition.

The petitioner submitted evidence that he was invited to judge the 2004 United States International Invitational Kuoshu (Wushu, Kung Fu) Championship Tournament. However, the petitioner submitted no evidence that he accepted this invitation and actually participated as a judge at the Tournament. Although the petitioner submitted the "Rules for International Wushu Sanshou Competition," which specifies the duties of the judges, the rules do not state, for example, how those judges are selected. Therefore, even if the petitioner demonstrated his participation as a judge, by failing to submit further evidence regarding the competition, such as the names of those he evaluated or their level of expertise, the petitioner has failed to establish that his activities involved judging top competitors or were otherwise consistent with sustained national or international acclaim at the very top level of his field.

Accordingly, the petitioner fails to meet this criterion.

Review of the record does not establish that the petitioner has distinguished himself 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. The evidence is not persuasive that the petitioner's achievements set him significantly above almost all others in his field at a national or international level. Nor is there clear evidence showing that the petitioner will continue to work in his area of expertise in the United States. 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 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.