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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

B2

[redacted]

FILE: [redacted] Office: NEBRASKA SERVICE CENTER Date: MAR 19 2009
LIN 06 246 52416

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).

Marin Johnson

John F. 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 (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 the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

On appeal, counsel argues that the petitioner meets 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 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). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that she has sustained national or international acclaim at the very top level.

This petition, filed on August 21, 2006, seeks to classify the petitioner as an alien with extraordinary ability in the martial arts. 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 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). The petitioner has submitted evidence pertaining to the following criteria.[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 submitted the following:

1. Wushu Dan Certificate stating that the petitioner "passed the Wushu Dan Examination" and achieved [redacted]).
2. Honorary Certificate stating that the petitioner won [redacted] in the event of Eight Diagram Palm of female adult at the second special item competition held by Eight Diagram Research Society of Beijing Wushu Association" (October 6, 2002).
3. The Honorary Certificate stating that the petitioner won in the event of Apparatus of female adult at the second special item competition held by Eight Diagram Research Society of Beijing Wushu Association" (October 6, 2002).
4. Certificate stating that the petitioner won '[redacted] in event of Dual Tomahawk of female young group at Beijing First 'Shuyiyuan' Cup Traditional Eight Diagram Palm Invitational Tournament" (October 2001.)
5. Certificate stating that the petitioner won '[redacted] at the event of Dual Apparatus in group of C female at the 5th International Wushu Invitational Tournament" (August 10, 2004).
6. Achievement Certificate stating that the petitioner won '[redacted]" in the "Female Group C Other Quanshu" event at the "First World Traditional Wushu Festival" (October 2004).
7. Achievement Certificate stating that the petitioner won '[redacted]" in the "Female Group C Other Double Apparatus" event at the at the "First World Traditional Wushu Festival" (October 2004).
8. Certificate of Performance stating that the petitioner won the "[redacted] of Eight Diagram Palm in female groups B, C, D" at the National Traditional Wushu Exchange Competition (August 8, 2004).

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

9. Certificate of Performance stating that the petitioner won the "[redacted] of Other Apparatus in female groups D" at the National Traditional Wushu Exchange Competition (August 8, 2004).
10. Certificate stating that the petitioner won [redacted] in the Taiji Apparatus at the First World Taijiquan Health Conference (March 22-26, 2001).
11. Certificate stating that the petitioner won [redacted] at the event of Traditional Chen Style Taiji Quan in group of female at the 5th International Wushu Invitational Tournament" (August 10, 2004).
12. Certificate stating that the petitioner was accepted as a Disciple by Kungfu Master [redacted] to study the form of [redacted].
13. Certificate stating that the petitioner accepted "[redacted] as her Kungfu Master" to study [redacted]
14. Certificate stating that the petitioner won "[redacted] at the event of Chen-style shadowboxing in female youth group in 2006 Beijing . . . [redacted] Chen Zhaokui Cup' Wushu & Shadowboxing Competition and Social Sport Instructor of Wushu & Shadowboxing Skills Competition" (April 8, 2006).
15. Certificate stating that the petitioner won [redacted] at the event of traditional apparatus in female youth group in 2006 Beijing . . . [redacted] Chen Zhaokui Cup' Wushu & Shadowboxing Competition and Social Sport Instructor of Wushu & Shadowboxing Skills Competition" (April 8, 2006).
16. Certificate stating that the petitioner won [redacted] at the event of traditional apparatus in female adult group in 2006 Beijing 'Li Ziming Cup' Wushu Competition and Social Sport Instructor of Traditional Wushu Skills Competition" (April 15, 2006).
17. Certificate stating that the petitioner won "[redacted] at the event of short apparatus in female youth group in the First Beijing Haichuan Cup Traditional Eight-diagram Palm Competition" (September 23, 2006).
18. Certificate stating that the petitioner won [redacted] at the event of Eight-diagram Palm in female youth group in the First Beijing 'Haichuan Cup' Traditional Eight-diagram Palm Competition" (September 23, 2006).
19. Honor Certificate stating that the petitioner won [redacted] at the event of 42-round shadowboxing in group A in shadowboxing competition of the Third National Millions of Women Body-building Competition" (April 2007)
20. Honor Certificate stating that the petitioner won [redacted] at the event of 24-round shadowboxing in group A in shadowboxing competition of the Third National Millions of Women Body-building Competition" (April 2007).
21. Certificate stating that the petitioner received a [redacted] in the "other apparatus" event category at the "Chinese Wushu Group Tournament" on May 31, 2007.
22. Certificate stating that the petitioner received a [redacted] in the [redacted]" event category at the "Chinese Wushu Group Tournament" on May 31, 2007.

With regard to item 1, the petitioner's appellate submission includes information from the Chinese Wushu Association's internet site indicating the requirements for attaining 5th Dan. The information states:

> Those that obtained the 4th Dan for over 2 years and meet one of the requirements as follows can be promoted to the 5th Dan:
>
> > Exercise a form of fist, a form of melee weapons or double weapons and a form of pole-arms with one of the forms obtains a place in the competition and with total score of more than 26.25 (total score is 30) in official Form & Promotion competitions, receive a score of more than 80 (total score is 100) in the theoretical examination of the 5th Dan, display a high degree of Chinese Martial Arts morality and ethics. (For Taijiquan, exercise 2 forms of fist and a form of weapons.)

The plain language of this regulatory criterion requires the petitioner's receipt of "nationally or internationally recognized prizes or awards for excellence in the field." While the petitioner's Wushu Dan Certificate reflects that she was promoted to 5th Dan based on her meeting the two-year time requirement and her mastery of required skills and theoretical knowledge, it is apparent that such promotions are inherent to the martial arts and that they represent standardized progression to the next skill level. Further, there is no evidence showing that the ceremony in which the petitioner received her Wushu Dan Certificate commanded national or international recognition. Accordingly, the petitioner has not established that passing a martial arts forms and theory examination and attaining a higher Dan ranking constitutes her receipt of a nationally or internationally recognized prize or award.

Regarding items 2 and 3, the petitioner submitted an event program from the Eight Diagram Research Society of Beijing Wushu Association reflecting that the competition took place at the "Teenager Activity Center of Chaoyang District, Beijing" and that she competed against only four other entrants in her event. There is no evidence showing that the petitioner's first place Honorary Certificates reflect national or international recognition rather than local or institutional recognition.

With regard to item 4, the petitioner submitted an event program for the Beijing First 'Shuyiyuan' Cup Invitational Competition, but there is no evidence showing that she faced a significant number of competitors in her event or that her first place certificate reflects national or international recognition rather than local recognition.

In regard to items 5 and 11, the petitioner submitted an event program for the 5th International Wushu Invitational Tournament, but there is no evidence showing that she faced more than three competitors in her events.

Regarding items 6 and 7, the petitioner submitted an event program for the First World Traditional Wushu Festival, but there is no evidence showing that she faced a significant number of national or international competitors in her events.

With regard to items 8 and 9, the petitioner submitted an event program for the competition, but there is no evidence showing that she faced a significant number of competitors in her events. For example, the petitioner only competed against seven other entrants in female groups B, C, D to win [redacted] (item 8). According to the competition regulations, Group B consists of competitors age

45 to 59, Group C consists of competitors age 30 to 44, and Group D consists of competitors age 17 to 29 years old.

In regard to item 10, the petitioner submitted the competition regulations, but there is no evidence showing that she faced a significant number of national or international competitors in her event.

Regarding items 12 and 13, these certificates confirm the petitioner's tutelage in the martial arts under experienced instructors, but there is no evidence showing that they constitute her receipt of nationally or internationally recognized prizes or awards for excellence in the field.

With regard to items 14 and 15, the petitioner submitted an event program for the competition, but there is no evidence showing that she faced a significant number of competitors in her events. For example, the petitioner only competed against three other entrants to win (item 14). In earning (item 15), the petitioner faced only six others in her event.

In regard to item 16, the petitioner submitted an event program for the competition, but there is no evidence showing that that her second place certificate reflects national or international recognition rather than local recognition.

Regarding items 17 through 22, the petitioner received these awards subsequent to the petition's **filing date. A petitioner, however, must establish eligibility at the time of filing.** 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Regl. Commr. 1971). Accordingly, the AAO will not consider these awards in this proceeding.

With regard to awards won by the petitioner in age-group competitions involving only a small number of competitors in her category, we do not find that such awards indicate that she "is one of that small percentage who have risen to the very top of the field of endeavor." *See* 8 C.F.R. § 204.5(h)(2). There is no indication that the petitioner faced significant competition from throughout her field, rather than mostly limited to a few individuals in age-based competition. USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Commr. 1994); 56 Fed. Reg. at 60899.[2] Likewise, it does not follow that a martial arts competitor who has had success in

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[2] While we acknowledge that a district court's decision is not binding precedent, we note that in *Matter of Racine*, 1995 WL 153319 at *4 (N.D. Ill. Feb. 16, 1995), the court stated:

> [T]he plain reading of the statute suggests that the appropriate field of comparison is not a comparison of Racine's ability with that of all the hockey players at all levels of play; but rather, Racine's ability as a professional hockey player within the NHL. This interpretation is consistent with at least one other court in this district, *Grimson v. INS*, No. 93 C 3354, (N.D. Ill. September 9, 1993), and the definition of the term 8 C.F.R. § 204.5(h)(2), and the discussion set forth in the preamble at 56 Fed. Reg. 60898-99.

Although the present case arose within the jurisdiction of another federal judicial district and circuit, the court's reasoning indicates that USCIS' interpretation of the regulation at 8 C.F.R. § 204.5(h)(2) is reasonable.

age-group competition involving only a small number of participants should necessarily qualify for an extraordinary ability employment-based immigrant visa. To find otherwise would contravene the regulatory requirement at 8 C.F.R. § 204.5(h)(2) that this visa category be reserved for "that small percentage of individuals that have risen to the very top of their field of endeavor." Further, plain language of the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(i) specifically requires that the petitioner's awards be nationally or internationally *recognized* in the field of endeavor and it is her burden to establish every element of this criterion. In this case, there is no evidence showing that petitioner's awards commanded a significant level of recognition beyond the context of the events where they were presented. For example, there is no evidence showing that the petitioner's awards were announced in major media or in some other manner consistent with national or international acclaim. Accordingly, the petitioner has not established that the categories in which she successfully competed resulted in her receipt of nationally or internationally recognized prizes or awards in the martial arts.

With regard to the petitioner's coaching achievements, nationally or internationally recognized prizes or awards won by athletes coached by the petitioner can be considered for this criterion. The record, however, does not include such evidence.

In light of the above, the petitioner has not established that she 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.*

In order to demonstrate that membership in an association meets this criterion, the petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, minimum education or experience, standardized test scores, 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 petitioner submitted her membership certificate for the Chinese Wushu Association. In response to the director's request for evidence, the petitioner submitted a document entitled "Management Method for Member of Chinese Wushu Association." Article 9 of this document states:

> People who apply for individual member shall meet the following qualifications:
>
> (1) Accepting articles of association of Chinese Wushu Association;
> (2) Being able to exercise member's rights and perform members obligations;
> (3) Paying membership fee on time.

We cannot conclude the above requirements are tantamount to outstanding achievements in the martial arts.

The petitioner also submitted a certificate from the Chinese Wushu Association reflecting that she attained a fifth level Dan. While the petitioner has "passed the Wushu Dan Examination" and achieved a fifth level Dan, there is no evidence showing that the Chinese Wushu Association requires a fifth level Dan to become a member.[3] Further, we cannot conclude that meeting the minimum time requirement for holding her preceding Dan and passing the martial arts forms and theory examination constitute outstanding achievements.

The petitioner submitted her "Membership Card" and "Coach Card" for the "Eight Diagram Palm Research Society" of the Beijing Wushu Association. The petitioner also submitted the "Regulations for Members" which state:

1) Love the Motherland. Love the learning of the martial arts profession and encourage a spirit of dedication.
2) Establish and maintain a high spirit of martial arts ethics. Respect and obey the law. Respect the teachers and the Way.
3) Continue the practice and development of . Work diligently and advance with bravery. Work ceaselessly to increase the level of the martial art.
4) Actively participate in all activities put on by the organization. Pay dues on time.
5) Promote and encourage the health of all.

We cannot conclude that the above requirements are tantamount to outstanding achievements in the martial arts.

In response to the director's request for evidence, the petitioner submitted an April 10, 2007 Letter of Appointment stating that she was employed as a coach of the "Wushu Association of Beijing Institute of Technology." The record, however, does not include evidence of the official admission requirements (such as membership bylaws) for this association. Further, there is no evidence demonstrating that the petitioner was a member of the association as of the petition's filing date. As discussed, a petitioner must establish eligibility at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. at 49.

In this case, there is no evidence showing that preceding associations require outstanding achievements of their members, as judged by recognized national or international experts in the martial arts. Accordingly, the petitioner has not established that she 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.*

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[3] For example, there is no evidence that first, second, third, and fourth level Dans are excluded from membership in the Chinese Wushu Association.

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 or from a publication printed in a language that the vast majority of the country's population cannot comprehend. Some newspapers, such as the *New York Times*, nominally serve a particular locality but would qualify as major media because of significant national distribution, unlike small local community papers.[4]

The petitioner submitted documentation indicating that photographs of her performing martial arts moves appeared on pages 24 and 28 of issues number 1 and 2 of *Zhonglaonian Baojian* in 2006. The director concluded that this didactic material was not about the petitioner and her accomplishments. Further, there is no evidence (such as circulation statistics) showing that this magazine qualifies as a major publication.

In response to the director's request for evidence, the petitioner submitted pages from a book entitled *Archives of the Beijing Wushu Association*. A profile of the petitioner appears on page 258. The documentation submitted by the petitioner reflects that the "First Edition" of the book was published in May 2007. A petitioner, however, must establish eligibility at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. at 49. Accordingly, the AAO will not consider this book in this proceeding. Nevertheless, the petitioner has not established this book, or any significant portion of it, is about her. Further, there is no evidence (such as national or international sales data) showing that the book qualifies as a major publication.

In responding to the director's request for evidence, counsel asserts that *People's Daily*, *Chinese Wu Shu*, the Bo Wu International Wu Shu website, *Zheng Zhou Daily*, *Wu Lin Feng*, *He Nan Commercials*, the Beijing TV Station, the program "Jingchen Jianshenchao," and the Chinese Wu Shu Association have covered the petitioner's awards and achievements. While the petitioner submitted general information about the preceding organizations and media outlets, their published material or coverage about the petitioner was not submitted. 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 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Further, the nonexistence or other unavailability of primary evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2)(i).

In light of the above, the petitioner has not established that she 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.*

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[4] 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.

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 competition.

The petitioner submitted a January 6, 2005 certificate stating that she was "appointed as a commissioner of Eight Diagram Palm Research Society of Beijing Wushu Association." This document does not provide any information regarding the petitioner's activities as a judge of others. The plain language of this regulatory criterion requires "[e]vidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the . . . field." In this instance, there is no evidence showing the specific work or competitions judged by the petitioner, the names of those she evaluated, their level of expertise, her dates of participation, or documentation of her assessments. Without evidence showing, for example, that the petitioner's activities involved judging top competitors or were otherwise consistent with sustained national or international acclaim at the very top level of her field, we cannot conclude that she meets this criterion.

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

The petitioner submitted numerous photographs and two digital video discs showing her presence at various events and her participation in martial arts competition. The plain language of this regulatory criterion indicates that it applies to the visual arts (such as sculpting and painting) rather than to martial arts competition. The ten criteria in the regulations are designed to cover different areas; not every criterion will apply to every occupation. The petitioner's participation and success in martial arts tournaments has 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. The petitioner has not established that her participation in competitions compares to the exclusive showcases of an artist's work that is contemplated by this regulation for visual artists.

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

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

In order to establish that she performed in a leading or critical role for an organization or establishment with a distinguished reputation, the petitioner must establish the nature of her role

within the entire organization or establishment and the reputation of the organization or establishment.

The petitioner submitted a January 6, 2005 certificate stating that she was "appointed as a commissioner of Eight Diagram Palm Research Society of Beijing Wushu Association." The petitioner also submitted a recommendation letters from of the Work Guiding Committee, Eight Diagram Palm Research Society of Beijing Wushu Association, stating:

> [The petitioner] always pays attention to the Wushu morality, respects teachers, intelligent and practices martial art hard. Therefore, I accepted [the petitioner] as my formal disciple in 2003, and she and , my outstanding disciple, have become fellow apprentices. In recent years, she is usually instructed by since I'm becoming old. [The petitioner] has a good command of Cheng Style Eight Diagram Palm and apparatus sword, dual tomahawk and etc. And she has won champions of Eight Diagram Palm and apparatus many times . . . . Among lot of my disciples, [the petitioner] may be called "a female hero."

The record lacks supporting evidence showing that the Eight Diagram Palm Research Society of Beijing Wushu Association has a distinguished reputation. Further, letter does not address the petitioner's activities as a commissioner. The petitioner's evidence does not establish that her role was leading or critical for the Eight Diagram Palm Research Society of Beijing Wushu Association. There is no evidence demonstrating how the petitioner's role differentiated her from the other staff and commissioners at the society, let alone its top leadership. The documentation submitted by the petitioner does not establish that she was responsible for the organization's success or standing to a degree consistent with the meaning of "leading or critical role" and indicative of sustained national or international acclaim.

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

In this case, the petitioner has failed to demonstrate her receipt of a major, internationally recognized award, or that she meets at least three of the criteria at 8 C.F.R. § 204.5(h)(3).

Beyond the regulatory criteria at 8 C.F.R. § 204.5(h)(3), the petitioner submitted several recommendation letters praising her talent in the martial arts and summarizing her tournament victories. The petitioner's competitive victories have already been addressed under the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(i). The recommendation letters, while not without weight, cannot form the cornerstone of a successful extraordinary ability claim. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Commr. 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795. Thus, the content of the experts' statements and how they became aware of the petitioner's reputation are important considerations. Even when written by independent experts, letters solicited by an alien in support of an immigration petition are of less weight than preexisting, independent evidence of

achievements and recognition that one would expect of an individual who has sustained national or international acclaim at the very top of the field.

While recommendation letters can provide useful information about an alien's qualifications or help in assigning weight to certain evidence, such letters are not a substitute for objective evidence of the alien's achievements and recognition as required by the statute and regulations. The nonexistence of required evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2)(i). Further, the classification sought requires "extensive documentation" of sustained national or international acclaim. *See* section 203(b)(1)(A)(i) of the Act, 8 U.S.C. § 1153(b)(1)(A)(i), and 8 C.F.R. § 204.5(h)(3). The commentary for the proposed regulations implementing the statute provides that the "intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required" for lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991). Primary evidence of achievements and recognition is of far greater probative value than opinion statements from individuals selected by the petitioner.

Review of the record does not establish that the petitioner has distinguished herself to such an extent that she may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of her field. The evidence is not persuasive that the petitioner's achievements set her significantly above almost all others in her field at a national or international level. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

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.