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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  
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FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: SEP 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 Director, Nebraska Service Center, denied the employment-based immigrant visa petition and reaffirmed that decision on motion.<sup>1</sup> The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner seeks classification as an "alien of extraordinary ability" in athletics, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). 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.

On appeal, counsel submits a brief and resubmits previously submitted evidence. For the reasons discussed below, we uphold the director's conclusion that the petitioner has not established his eligibility for the exclusive classification sought.

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, 60898-9 (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 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.

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<sup>1</sup> The director issued two decisions on motion, first concluding that the filing did not meet the requirements of a motion to open pursuant to 8 C.F.R. § 103.5(a)(2) and subsequently issuing a second decision addressing the merits of the petitioner's motion.

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 seeks to classify the petitioner as an alien with extraordinary ability as a gymnastics coach. Although the petitioner competed several years ago, the petitioner has exclusively coached for the past several years. The regulation at 8 C.F.R. § 204.5(h) requires the beneficiary to "continue work in the area of expertise." While a competitor and a coach certainly share knowledge of gymnastics, the two rely on very different sets of basic skills. Thus, competitive athletics and coaching are not the same area of expertise. This interpretation has been upheld in Federal Court. *See Lee v. I.N.S.*, 237 F. Supp. 2d 914 (N.D. Ill. 2002). Moreover, as the petitioner must demonstrate *sustained* national or international acclaim, his accomplishments in the 1980s and early 1990s as a competitor could not serve, by themselves, to establish his eligibility for this classification. The duration of the petitioner's experience as a coach suggests that he has had ample time since switching from competing to coaching to establish his acclaim as a coach. As such, we will focus on his more recent accomplishments as a coach.

The regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, international recognized award). Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. The petitioner has submitted evidence that, he claims, meets the following criteria under 8 C.F.R. § 204.5(h)(3).<sup>2</sup>

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

The petitioner did not initially claim to meet this criterion. Initially, prior counsel asserted that the petitioner trained gymnasts, including [REDACTED] and [REDACTED], "who have gone on to perform at the highest levels." The petitioner provided two nearly identical letters signed by Ms. [REDACTED] and [REDACTED] asserting that their personal coaches, [REDACTED] and [REDACTED] hired the petitioner to coach them "on a regular basis" in 2003 and 2004 to prepared for the Olympics.

In his initial letter, however, [REDACTED] asserts: "In 2004 I coached two gymnasts – [REDACTED] and [REDACTED] – to the Olympics in Athens." (Emphasis added.) He further states that he learned of the petitioner in 2003 and persuaded him to "train with us several times during the year" and provided experience "which was helpful to us in placing not one but two athletes on the Olympic Team." He concludes that he did not hire the petitioner full time until 2005, which is after the Olympics were over. While the petitioner provided newspaper articles about other gymnasts identifying himself as their coach, the petitioner did not submit a single article identifying him as the coach of either [REDACTED] or [REDACTED].

<sup>2</sup> The petitioner does not claim to meet or submit evidence relating to the criteria not discussed in this decision.

On August 6, 2008, the director issued a request for additional evidence, advising that the petitioner had not demonstrated that he had served as the head coach for an Olympic medalist. In response, prior counsel asserted that the initial letters from [REDACTED] and [REDACTED] as well as letters from [REDACTED] and a newly submitted joint letter from [REDACTED] and [REDACTED], establish that the petitioner "was involved in the day to day coaching" of those Olympic medalists.

In his initial letter, [REDACTED] asserts only that while the petitioner worked for [REDACTED] he "played a vital role in the success of their gymnasts . . . 2004 Olympians [REDACTED] and [REDACTED] (Ellipsis in original.) We note that the paragraph in which that sentence appears is nearly identical to a paragraph in a letter from [REDACTED]. The origin of this apparently prewritten language is unknown, although we acknowledge that both Mr. [REDACTED] and [REDACTED] attest to this information with their signatures. Neither [REDACTED] nor Mr. [REDACTED] explain, however, how they know of the petitioner's precise role in the training of Ms. [REDACTED] and [REDACTED].

In their new letter, [REDACTED] and [REDACTED] assert that the petitioner began working at their gym as a "guest coach" in 2003, who visited "on a regular basis to help design our international development system." They acknowledge, however, that they are the head coaches; that they are the only coaches allowed on the competitive floor; and that newspapers will identify them, and not the petitioner, as the athlete's head coaches. They affirm, nevertheless, that the petitioner "was invaluable" in training Ms. [REDACTED] and [REDACTED].

On motion, the petitioner submitted gymnastic results for athletes allegedly coached by the petitioner and published materials about athletes competing at the regional level coached by the petitioner. The petitioner also resubmits the previously submitted letters. Counsel requested that the letters from Ms. [REDACTED] and [REDACTED] be treated "as corroborating objective documentary evidence of coaching and not as a letter of support from an expert expressing opinion."

The director ultimately concluded that the factual assertions made in the letters should be verifiable through documentary evidence and that the record lacked athlete biographies identifying the petitioner as the athlete's head coach or Olympic programs or other official documentation identifying the petitioner as an Olympic coach.

On appeal, counsel asserts that the letters from [REDACTED] and [REDACTED] were ignored. Counsel further notes that [REDACTED] for Programs of USA Gymnastics, asserts that the petitioner "validated our expectations by assisting in the development of State, Regional and National Champions at the Junior Olympic and Elite level." [REDACTED] does not specify any particular gymnast for whom the petitioner served as head coach.

The regulation at 8 C.F.R. § 204.5(h)(3)(i) requires evidence of the alien's receipt of a lesser nationally or internationally recognized prize or award. The record contains no coaching prizes or awards issued

to the petitioner. We acknowledge that the regulation at 8 C.F.R. § 204.5(h)(4) permits the submission of comparable evidence where the criteria are not readily applicable. Arguably, this criterion is not readily applicable to coaches, who coach athletes to win awards rather than competing for awards themselves. Thus, we do not contest the implication in the director's request for additional evidence that evidence demonstrating that one of the petitioner's athletes won a nationally or internationally recognized prize while under the petitioner's primary tutelage could, on a case-by-case basis, serve as comparable evidence to meet this criterion.

In considering "comparable" evidence, the evidence at issue must be truly "comparable" to the regulatory criteria set forth at 8 C.F.R. § 204.5(h)(3) such that the evidence is indicative of sustained national or international acclaim. Serving as a guest coach or an assistant coach during the preliminary training for a nationally or internationally recognized competition, however, is not comparable to the alien's own receipt of a nationally or internationally recognized prize or award. [REDACTED] and Ms. [REDACTED] readily acknowledge that assistant coaches and guest coaches are not visible and do not garner any media attention.

While we do not question the sincerity of [REDACTED] and [REDACTED] we concur with the director that the petitioner's status in the coaching hierarchy, if significant, should be readily apparent in the biographies of the athletes, the published material about those athletes or programs or through coaching credentials and event identification. The record lacks any such evidence establishing that the petitioner served as an Olympic coach or that any athlete won an Olympic medal while primarily under the petitioner's tutelage.

In light of the above, the petitioner submitted no evidence to meet the plain language requirements of this criterion as a coach. As the evidence submitted is not truly comparable to an award actually received by the petitioner, the petitioner has not established 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.*

While the petitioner never claimed to meet this criterion, we note the initial submission of foreign language material, mostly from the 1980's, with no article dated after 1996. The translations, some of which are only partial, are not certified pursuant to 8 C.F.R. § 103.2(b)(3). They also mostly cover competitions where the petitioner competed and, thus, are not "about" the petitioner. In addition, they do not relate to his work as a coach. Moreover, the petitioner did not submit any information about the publications that carried these articles. As such, we cannot determine whether they are professional or major trade publications or other major media. The English-language materials are primarily about the petitioner's athletes, and not about the petitioner. Moreover, the petitioner has not established that *The Dedham Times* or *The Walpole Times* are professional or major trade publications or other major media. On motion, the petitioner submitted an undated interview with the petitioner in what appears a

Brazilian newspaper. The petitioner submitted no evidence that this newspaper is a professional or major trade journal or other major media.

In light of the above, the petitioner has not established 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 evidence relating to this criterion for the first time on appeal. Specifically, the petitioner submitted a September 8, 2008 "Statement" from [REDACTED] Director of the Vanadzor Sport Complex in the Lori Region of the Republic of Armenia. According to another statement from [REDACTED] the petitioner was a trainer at this complex for several years, ending in 2003. Mr. [REDACTED] asserts:

[The petitioner] was considered to be a member of [the] referee's collegium of Lori region and the RA sports gymnastics. As a referee he always conducted sports gymnastics championships of Lori region and the Republic of Armenia.

does not indicate when the petitioner served as a referee. We note that the petitioner left Armenia in 2003, four years before the petition was filed. [REDACTED] also does not specify the duties of a referee as distinct from a judge that actually scores the gymnasts' performances. Without additional information, especially regarding the dates, we cannot conclude that this evidence is evidence of *sustained* national or international acclaim. We further note that the petitioner's selection as a referee at the complex where he works carries less weight than selection for an external judging position. In light of the above, the petitioner has not established 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.*

According to the regulation at 8 C.F.R. § 204.5(h)(3)(v), an alien's contributions must be not only original but of major significance. We must presume that the terms "original" and "major significance" are not superfluous and, thus, that they have some meaning. To be considered an original contribution of major significance in the field of coaching, it can be expected that the coaching methodology would be not only successful, but demonstrably novel and influential.

We acknowledge the submission of several letters, including letters from [REDACTED] and former members of the Armenian national gymnastics team. These letters all praise the petitioner's ability as a coach, with some references characterizing him as a "rare find." None of the letters, however, provide examples of specific novel methodologies pioneered by the petitioner that have influenced the coaching of gymnastics.

As stated by the director, 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 (Comm'r. 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. USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795; *see also Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l. Comm'r. 1972)).

In evaluating the reference letters, we note that letters containing mere assertions of widespread acclaim and vague claims of contributions are less persuasive than letters that specifically identify contributions and provide specific examples of how those contributions have influenced the field. In addition, letters from independent references who were previously aware of the petitioner through his reputation and who have been influenced by his innovations are more persuasive than letters that simply repeat generalized language, such as:

It is his coaching philosophy and technical mastery that pushes his students to the limits of their abilities. He is a rare find. He can easily demonstrate gymnastics skills to illustrate great technique for the gymnasts to emulate. This makes it easier for them to learn and retain.<sup>3</sup>

Ultimately, evidence in existence prior to the preparation of the petition carries greater weight than new materials prepared especially for submission with the petition. An individual with sustained national or international acclaim should be able to produce unsolicited materials reflecting that acclaim.

Without evidence of his original methodology or approach and his influence on the field of coaching gymnastics, we cannot conclude that the petitioner meets this criterion.

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

Prior counsel asserted initially that the competitions attended by the petitioner's athletes serve to meet this criterion. No future filing has referenced this criterion. We find that this criterion pertains to visual artists, not coaches. An athletic competition is not an artistic exhibition or showcase and a coach's athletes are not his "work." We are also not persuaded that having one's athletes compete is comparable evidence to meet this criterion. Thus, the petitioner has not establish that he meets this criterion.

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<sup>3</sup> This language appears in the letters from [REDACTED] and [REDACTED]

[REDACTED]

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

Initially, the petitioner submitted evidence of his position as a "trainer" at the Vanadzor Sports Complex and a letter confirming that he was employed in an unidentified capacity at the New England Sports Academy in Massachusetts. As evidence of the reputation of the gym where the petitioner trained [REDACTED] and [REDACTED], the petitioner submitted materials from the Internet site *Wikipedia*. The director's request for additional evidence noted that the *Wikipedia* page had been removed as an advertisement. In response to the director's request for additional evidence, prior counsel asserted that the petitioner meets this criterion through his service as a guest coach providing training to [REDACTED] and [REDACTED]. Prior counsel also criticized the director for viewing *Wikipedia*, submitting evidence that anyone can edit *Wikipedia*. While we concur with prior counsel that *Wikipedia* is unreliable,<sup>4</sup> his criticism is disingenuous as it was the petitioner himself who submitted the *Wikipedia* materials as part of the initial filing. Regardless, the record contains sufficient independent evidence that [REDACTED]'s gym has a distinguished reputation nationally.

On motion, the petitioner submitted a certificate verifying his participation in the Olympic Day Run in 2000. The certificate does not specify his role in this event. In addition, in a September 8, 2008 statement, [REDACTED] asserts that the petitioner worked as a "senior trainer" at the Vanadzor complex.

At issue for this criterion are the nature of the role the petitioner was selected to fill and the reputation of the entity that selected him. In other words, the nature of the role itself must be such that selection for that role is indicative of or consistent with national or international acclaim.

Without an organizational chart or other evidence as to how the petitioner's position as a senior trainer or coach fits within the hierarchy of his employers, we cannot conclude that the petitioner has established 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 the field of endeavor.

Review of the record, however, does not establish that the petitioner has distinguished himself as a gymnastics coach 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 indicates that the petitioner shows talent as a coach, but is not persuasive that the petitioner's achievements set him significantly above almost all others in 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.

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<sup>4</sup> Reliance on *Wikipedia* is not favored by federal courts. See *Badasa v. Mukasey*, 540 F. 3d 909 (8<sup>th</sup> Cir. 2008).

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.