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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

B2

[redacted]

DATE: APR 2 3 2012 Office: NEBRASKA SERVICE CENTER FILE: [redacted]

IN RE: Petitioner: [redacted]
Beneficiary:

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:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 $630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based immigrant visa petition on August 18, 2010. The self-represented petitioner, who is also the beneficiary, appealed the decision with the Administrative Appeals Office (AAO) on September 17, 2010.[1] The appeal will be dismissed.

The petitioner seeks classification as an "alien of extraordinary ability" in athletics, specifically, in the field of karate, as both a practitioner and coach, 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 that the petitioner has not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

Congress set a very high benchmark for aliens of extraordinary ability by requiring through the statute that the petitioner demonstrate the alien's "sustained national or international acclaim" and present "extensive documentation" of the alien's achievements. *See* Section § 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(3). The implementing regulation at 8 C.F.R. § 204.5(h)(3) states that an alien can establish sustained national or international acclaim through evidence of a one-time achievement of a major, internationally recognized award. Absent the receipt of such an award, the regulation outlines ten categories of specific objective evidence. 8 C.F.R. § 204.5(h)(3)(i)-(x). The petitioner must submit qualifying evidence under at least three of the ten regulatory categories of evidence to establish the basic eligibility requirements.

On appeal, the petitioner submits a brief and (1) an October 14, 2010 U.S. Citizenship and Immigration Services (USCIS) online printout showing his case status, (2) copies of medals with handwritten notations, (3) a November 5, 2009 letter from [redacted] an Italian State Police team, (4) a list of 2002 to 2007 competition results of athletes the petitioner had trained, (5) three news articles and their English translations, and (6) a number of online printouts about karate and its practitioners and organizations, none of which reference the petitioner specifically. The petitioner has previously filed most of these documents.

In his brief filed in support of the instant appeal, the petitioner asserts that his first place finish in his weight division at the 1993 1st [redacted] constitutes "evidence of a one-time achievement (that is, a major, international recognized award)," as required under the regulation at 8 C.F.R. § 204.5(h)(3). He also asserts that the director erred in finding that he has not established the sustained national or international acclaim as a karate practitioner or as a karate coach, necessary to qualify for classification as an alien of extraordinary ability. Specifically,

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[1] Although the petitioner's brief filed in support of the instant appeal contains the letterhead of [redacted] located in Los Angeles, California, the brief states that "This appeal is written by [the petitioner] and just put some labeling by the attorney listed above. This is his own writing and his request was to submit it with his own words. So below is his Appeal." The AAO notes that although [redacted] filed a Notice of Entry of Appearance as Attorney or Accredited Representative, Form G-28, when the petitioner initially filed the visa petition, she did not file a Form G-28 when the instant appeal was filed. Moreover, it was the petitioner who signed the Notice of Appeal or Motion, Form I-290B, not [redacted] or another attorney. Accordingly, the AAO deems that the petitioner is self-represented.

he asserts that he meets the lesser nationally or internationally recognized prizes or awards criterion under 8 C.F.R. § 204.5(h)(3)(i), the membership in associations criterion under 8 C.F.R. § 204.5(h)(3)(ii), the published material about the alien criterion under 8 C.F.R. § 204.5(h)(3)(iii), the performance of a leading or critical role criterion under 8 C.F.R. § 204.5(h)(3)(viii). For the reasons discussed below, the AAO finds that the petitioner has not established his eligibility for the exclusive classification sought. Specifically, the AAO finds that the petitioner meets none of the ten regulatory criteria under the regulation at 8 C.F.R. § 204.5(h)(3). As such, the AAO finds that the petitioner, whose most significant accomplishments predate the filing of the petition by 15 or more years, has not demonstrated that he is one of the small percentage who are at the very top of the field and he has not sustained national or international acclaim. *See* 8 C.F.R. §§ 204.5(h) (2), (3). Accordingly, the AAO must dismiss the petitioner's appeal.

I. LAW

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.

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* H.R. 723 101st Cong., 2d Sess. 59 (1990); 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). The term "extraordinary ability" refers only to those individuals in that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2).

The regulation at 8 C.F.R. § 204.5(h)(3) requires that the petitioner demonstrate the alien's sustained acclaim and the recognition of his or his achievements in the field. Such acclaim must be established either through evidence of a one-time achievement (that is, a major, internationally recognized award) or through the submission of qualifying evidence under at least three of the ten categories of evidence listed under the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x).

In 2010, the U.S. Court of Appeals for the Ninth Circuit reviewed the denial of a petition filed under this classification. *Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). Although the court upheld the AAO's decision to deny the petition, the court took issue with the AAO's evaluation of the evidence submitted to meet a given evidentiary criterion.[2] With respect to the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vi), the court concluded that while USCIS may have raised legitimate concerns about the significance of the evidence submitted to meet those two criteria, those concerns should have been raised in a subsequent "final merits determination." *Kazarian*, 596 F.3d at 1121-22.

The court stated that the AAO's evaluation rested on an improper understanding of the regulations. Instead of parsing the significance of evidence as part of the initial inquiry, the court stated that "the proper procedure is to count the types of evidence provided (which the AAO did)," and if the petitioner failed to submit sufficient evidence, "the proper conclusion is that the applicant has failed to satisfy the regulatory requirement of three types of evidence (as the AAO concluded)." *Kazarian*, 596 F.3d at 1122 (citing to 8 C.F.R. § 204.5(h)(3)).

Thus, *Kazarian* sets forth a two-part approach where the evidence is first counted and then considered in the context of a final merits determination. In this matter, the AAO will review the evidence under the plain language of the regulatory requirements. As the petitioner did not submit qualifying evidence showing a one-time achievement, that is, a major, internationally recognized award, or evidence under any of the ten regulatory criteria, the proper conclusion is that the petitioner has failed to satisfy the regulatory requirements. *Kazarian*, 596 F.3d at 1122.

II. ANALYSIS

A. Evidentiary Criteria[3]

Under the regulation at 8 C.F.R. § 204.5(h)(3), the petitioner can establish sustained national or international acclaim and that his achievements have been recognized in the sport of karate by presenting evidence of a one-time achievement, that is, a major, internationally recognized award.

On appeal, the petitioner contends that he meets this evidentiary requirement because he had won a world championship in his weight division, 80+ kilograms, at a 1993 international competition held in Athens, Greece. He presents a number of documents to corroborate his claim of a first place finish in the competition, including (1) a [redacted] certificate, (2) photographs of the "1st World [redacted]" trophy, (3) an April 21, 2009 letter from [redacted] Federation

[2] Specifically, the court stated that the AAO had unilaterally imposed novel substantive or evidentiary requirements beyond those set forth in the regulations at 8 C.F.R. § 204.5(h)(3)(iv) and (vi).

[3] The petitioner does not claim that the petitioner meets the regulatory categories of evidence not discussed in this decision.

(4) a number of letters from and (5) a number of newspaper articles.

Based on all the evidence in the record, however, the AAO finds that petitioner has not shown that his first place finish, in his weight division, in the 1993 international competition constitutes a major, internationally recognized award under the regulation at 8 C.F.R. § 204.5(h)(3). First, the AAO notes that the name of the 1993 competition has been inconsistently presented in the petitioner's evidence. The competition certificate indicates that it is the Championship," but the trophy shows that it is the "1st World Competition." provided another name for the competition: " The October 10, 1993 article, entitled – an from becomes World Champion," published by states that the petitioner won the held in Athens, Greece. The September 29, 1993 article, entitled also published by states that the competition is called the " The October 5, 1993 article, entitled " published by calls the competition: Championship." In his April 12, 2010 response to the director's Request for Evidence, prior counsel contended that in 1993, the petitioner won the " a name for the competition that is not used in any of the abovementioned documentary evidence. The petitioner has provided inconsistent documents and "it is incumbent upon [him] to resolve the inconsistencies by independent objective evidence. Attempts to explain or reconcile the conflicting accounts [or evidence], absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice." *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The petitioner has provided no such evidence to explain or reconcile the inconsistent evidence.

Second, the AAO does not have sufficient evidence to conclude that the 1993 international competition constitutes a major, internationally recognized award. In her March 3, 2010 Request for Evidence, the director requested the petitioner to "submit documentary evidence to establish the criteria for winning the award or prize, including evidence regarding who is eligible to compete for the award or prize." The director also requested the petitioner to submit "documentary evidence to establish the reputation of the organization granting the award and any other documentary evidence establishing the significance of the award or prize." In response, the petitioner's prior counsel referenced a letter from which states that the 1993 competition "featured the top level of world-wide professional participants," there were "over 1000 participants," and the petitioner's first place finish means that he "was internationally considered as the top 80+ kilogram expert in the world in 1993." An October 5, 1993 article, entitled " published by states that more than 21 teams representing nations from all over the world participated in the 1993 competition. It also states that "the traditionally strong nations in terms of karate teams – Spain, Japan and Great Britain – had sent their best athletes."

None of the two documents or any other documents in the record, however, fully address the director's Request for Evidence. Specifically, the petitioner has not presented any evidence on the

number of divisions in the 1993 competition, the number of participants in the petitioner's division, the qualification for participation in the practitioner's division, the criteria for wining first place in the petitioner's division or the number of first place finishes awarded in the 1993 competition.

Moreover, although letter states that the competition organizer, "was founded in 1991," it is "established in 51 countries," and it is "the largest of the three main organization[s]," this evidence, which relates to the size of the competition organizer, does not establish reputation or prestige in the sport of karate in 1993, at the time it awarded the petitioner a first place finish in the competition. Furthermore, the evidence submitted to show the recognition of the petitioner's award is from the entity that issued the award. Such self-promotional evidence has minimal evidentiary value. *See Braga v. Poulos*, No. CV 06 5105 SJO (C.D.C.A. July 6, 2007), *aff'd*, 2009 WL 604888 (9th Cir. 2009) (concluding that the AAO did not have to rely on self-serving assertions on the cover of a magazine as to the magazine's status as major media). The petitioner has not supported the self-promotional evidence with more independent evidence, such as, but not limited to, independent journalistic coverage of the 1993 competition in nationally circulated publications.

Given Congress' intent to restrict this category to "that small percentage of individuals who have risen to the very top of their field of endeavor," the regulation permitting eligibility based on a one-time achievement must be interpreted very narrowly, with only a small handful of awards qualifying as major, internationally recognized awards. *See* H.R. Rep. 101-723, 59 (Sept. 19, 1990), reprinted in 1990 U.S.C.C.A.N. 6710, 1990 WL 200418 at *6739. Congress' example of a one-time achievement is a Nobel Prize. *Id.* 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). Significantly, even a lesser internationally recognized award could serve to meet only one of the ten regulatory criteria, of which an alien must meet at least three. 8 C.F.R. § 204.5(h)(3)(i). The selection of Nobel Laureates, the example provided by Congress, is reported in the top media internationally regardless of the nationality of the awardees, is a familiar name to the public at large and includes a large cash prize. While an internationally recognized award could conceivably constitute a one-time achievement without meeting all of those elements, it is clear from the example provided by Congress that the award must be global in scope and internationally recognized in the alien's field as one of the top awards in that field.

In this case, the petitioner has not shown through his evidence that his first place finish in his weight division in the 1993 international competition constitutes a major, internationally recognized award, at the level similarly to that of the Nobel Prize. The award, however, will be further addressed as a lesser award under the criterion under the regulation at 8 C.F.R. § 204.5(h)(3)(i).

Barring the petitioner's receipt of such a major, internationally recognized award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to meet the basic eligibility requirements.

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i).

When prior counsel initially filed the visa petition on December 28, 2009, she asserted that the petitioner meets the prizes or awards for excellence criterion under the regulation at 8 C.F.R. § 204.5(h)(3)(i), because of the petitioner's first place finishes in competitions from 1988 to 2000. In her March 3, 2010 Request for Evidence, the director requested the petitioner to submit evidence to establish the criteria for winning each award or prize, including evidence regarding who is eligible to compete, the reputation of the competition organizers and any other evidence showing the significance of each award. In response, prior counsel listed the petitioner's additional competition results from 2002 to 2007, and asserted that "[t]hese awards constitute national acclaim, as they are from Italian competitions, and sustained success, as they range from the year 2002 through 2007." Prior counsel also provided evidence that the petitioner has received a number of awards for being a coach at [redacted] The director concluded that the petitioner had not submitted qualifying evidence under this criterion.

The AAO acknowledges that previously, the petitioner had filed another employment-based immigrant visa petition on June 16, 2008 and provided much of the same evidence he has provided along with the instant employment-based immigrant visa petition, filed on December 28, 2009. With respect to the June 16, 2008 petition, the director, without including any analysis, found that the petitioner met the lesser nationally or internationally recognized prizes or awards. On April 29, 2010, the AAO did not explicitly withdraw the director's finding, but noted:

> . . . [T]he evidence provided by the petitioner for this criterion was often times problematic. Many of the photographs the petitioner submitted were blurry and difficult to read. In addition, the appropriate translations for all of his medals and trophies, as required by 8 C.F.R. § 103.2(b)(3), were not provided.

While the AAO in its April 29, 2010 decision did not withdraw the director's finding that the petitioner met this criterion, the prior AAO decision does not preclude the AAO from now finding that, based on all the evidence currently in the record, the petitioner has not met the criterion. Even prior approvals do not preclude USCIS from denying extensions based on a reassessment of a petitioner's qualifications. *See Texas A&M Univ. v. Upchurch*, No. 03-10832, 99 F. App'x 556, 2004 WL 1240482 (5th Cir. Jun.2, 2004). In short, the AAO is not required to approve applications or petitions where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. *See, e.g., Matter of Church Scientology Int'l*, 19 I&N Dec. 593, 597 (Comm'r 1988). It would be absurd to suggest that USCIS or any agency must treat acknowledged errors as binding precedent. *Sussex Engg. Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987), *cert. denied*, 485 U.S. 1008 (1988). In this matter, there has not even been a prior approval, the AAO merely failed to withdraw a favorable finding in a director's decision that ultimately denied a prior petition.

In this case, based on the evidence currently before the AAO, the AAO finds that the petitioner has not met the prizes or awards for excellence criterion. Although the AAO finds that the petitioner's first place finish in the 1993 " which predates the filing of the instant visa petition by more than 15 years, constitutes a lesser nationally or internationally recognized prize or award for excellence, the AAO concludes that the petitioner has not shown he has received a second lesser nationally or internationally recognized prize or award for excellence in the sport of karate, as required under the regulation at 8 C.F.R. § 204.5(h)(3)(i). The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i) requires evidence of qualifying prizes or awards in the plural, consistent with the statutory requirement for extensive documentation. Section 203(b)(1)(A)(i) of the Act. While the petitioner's first place finish in the 1993 international competition constitutes a single example of such prize or award, it is insufficient evidence to show prizes or awards for excellence in the plural.

In her brief filed in support of the initial visa petition, prior counsel contended that the petitioner's first place finish at the "1994 and his placements in a number of competitions held in and out of Italy constitute lesser nationally or internationally recognized prizes or awards. To support this assertion, prior counsel filed an April 21, 2009 letter from stating that the petitioner had finished in "1st place in the 80+ kilogram category at the 1994 European Championships in Paris." The letter also states that the 1994 competition "featured the top level of European participants," had "over 1000 participants," and the petitioner's placement "signifies that [he] was Europe's best 80+ kilogram expert."

In his undated letter, since 1978 of an international Karate competition that, during the years, has changed name and formula several times," stated that the petitioner finished "1st qualified" in "male team in the in January 1994 and finished "1st qualified" in "Individual 80 Kilos+" and in "Male teams in the " in January 1996. The letter further states that there were 399 athletes from 6 countries who participated in the January 1994 competition and 324 athletes from 6 countries who participated in the January 1996 competition.

In her January 8, 2008 letter, listed the petitioner's first place finish in the " in Paris, France, as part of his competitive history from 1991 to 2000. Also, a December 31, 1994 article, entitled " published in states that the petitioner had won in December 1994 "the prestigious - Ryu in Paris, France."

Although the petitioner's evidence shows his participation and high finishes in a number of international competitions, his evidence does not show that these finishes constitute nationally or internationally recognized prizes or awards for excellence in the sport of karate. First, the petitioner submitted photocopies of a number of medals and trophies. Some of the photocopies, however, are blurry and hard to read. Also, some of the medals and trophies contain foreign languages, and have not been properly translated as required under the regulation at 8 C.F.R. § 103.2(b)(3). Second,

although the petitioner has submitted a number of reference letters, including those from that state that some of the competitions in which the petitioner was awarded a high placement, had hundreds of participating athletes from a number of different countries, the AAO does not have information on the number of divisions in each competition, the number of participants in the petitioner's division in each competition, the qualification for participation in the practitioner's division in each competition, the criteria for determining a participant's placement in the petitioner's division in each competition or the number of each placement, i.e., first place, second place and third place, awarded in each competition.

Moreover, the AAO found that the petitioner has not shown that the competition organizers have such a reputation such that the petitioner's placements in the competitions constitute nationally or internationally recognized prizes or awards for excellence in the sport of karate. Specifically, although the petitioner has provided a letter from (1) of the "1994 European Championships," and (2) whose organization organized a number of international competitions, the AAO finds that such evidence, submitted to show the recognition of the petitioner's awards, is from the organizers that issued the awards. Such self-promotional evidence has minimal evidentiary value. *See Braga*, 2009 WL 604888. The petitioner has not supported the self-promotional evidence with more independent evidence, such as, but not limited to, independent journalistic coverage of the competitions in nationally circulated publications.

Finally, the petitioner has submitted photocopies of awards that he received as a coach and photographs of awards or trophies that the teams or athletes he trained had received. The awards include: a 2002 award "to the coach of the first classified team" and "Certificate of Appreciation to [the petitioner] of 2005." The petitioner, however, has not provided the AAO with evidence of the number of people who were eligible to receive any of the coaching awards, the nomination and selection process for each award, or the number of people who received a similar award in the same year. In short, the AAO has insufficient evidence to conclude that any of the awards that the petitioner received in his role as a coach or the awards of the teams and athletes the petitioner coached constitutes a lesser nationally or internationally recognized prize or award for excellence in the sport of karate.

Accordingly, based on all the evidence in the record, the AAO finds that the petitioner has not submitted documentation of his receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of karate. *See* 8 C.F.R. § 204.5(h)(3)(i).

> *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.* 8 C.F.R. § 204.5(h)(3)(ii).

When prior counsel initially filed the visa petition, she claimed that the petitioner meets the membership in associations criterion under the regulation at 8 C.F.R. § 204.5(h)(3)(ii), because he

was a member in the and . The director, however, found in her August 18, 2010 decision, that the petitioner has not shown that he is a member of any association that requires outstanding achievements of its members. The AAO agrees.

The petitioner asserts in his brief in support of the instant appeal that "as a world champion, [he is] exempted from having to meet any membership requirement." He further asserts that "[his] world champion title [is] the membership requirement." As previously discussed, although the petitioner calls himself a world champion, the AAO finds that he has not provided sufficient evidence showing that this title constitutes a one-time achievement, that is, a major, internationally recognized award. Also, the petitioner has provided no evidence to support his assertion that his "world champion title" is a membership requirement for any of the organizations to which he is a member. The AAO has consistently found that unsubstantiated assertions are not sufficient for purposes of meeting the petitioner's burden of proof. *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)).

Although the petitioner has submitted a number of documents relating to this criterion, none of them, however, support his assertion that the organizations to which he is a member require outstanding achievements of their members. For example, the petitioner filed a March 30, 2010 online printout from the Italian State Police, stating that to join the its sport team, applicants must be "recognized athletes in the national interest by the Italian Olympic Committee or the National Sports Federations." Neither the printout nor any other evidence in the record explains the meaning of "recognized athletes in the national interest" or whether it means that members must have outstanding achievements.

Moreover, although the petitioner has submitted a number of letters from none of the letters support the petitioner's assertion that he meets this criterion. In her March 13, 2009 letter, stated that the petitioner was a member of division, from 1989 to 2007. She further stated that "[o]ne must have extraordinary ability in Karate to be a member of this organization." She explained, in a general manner, without giving any specific numbers, that "[o]ut of the thousands of people who apply to become a part of this team, only a select few can become members. Each individual applicant is evaluated for their qualifications." In her October 26, 2009 letter, stated that the petitioner was a "mentor and trainer for the from 2002 to 2007." A position with an association is not a membership in an association. The regulations contain a separate criterion for leading or critical roles for organizations or establishments with a distinguished reputation. *See* 8 C.F.R. § 204.5(h)(3)(ix). Moreover, she did not provide any details as to the qualifications one must have to become a member or a coach for or information on whether membership is dependent on an applicant's outstanding achievements as judged by recognized national or international experts in the sport of karate.

The petitioner has also failed to show that requires outstanding achievements from its members. Specifically, although the petitioner has provided a September 21, 2010 online printout that

states that it, founded in 1972, "is the premier karate organization in the world," he has failed to provide the membership selection criteria or details on how one becomes and remains a member. As such, the AAO is without sufficient evidence to conclude that the requires of its members outstanding achievements as judged by recognized national or international experts in the sport of karate.

The petitioner also asserts that he is a member of and files an April 16, 2009 letter on letterhead that verifies his membership from 1997 to 2007. The letter indicates that the petitioner became a technical karate instructor first in the trainer category in 1996, and then in the instructor category in 2004. Initially, the AAO notes that the petitioner has not provided a full English language translation of the Italian document. *See* 8 C.F.R. § 103.2(b)(3). Second, the undated online printout does not establish that the organization requires outstanding achievement of its member.

Accordingly, based on all the evidence in the record, the AAO finds that the petitioner has not submitted documentation of his 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. *See* 8 C.F.R. § 204.5(h)(3)(ii).

> *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.* 8 C.F.R. § 204.5(h)(3)(iii).

When prior counsel initially filed the visa petition, she claimed that the petitioner meets the published material about the alien criterion under the regulation at 8 C.F.R. § 204.5(h)(3)(iii). In her response to the director's Request for Evidence, prior counsel continued to assert that the petitioner meets this criterion. The petitioner has submitted a number of articles, including (1) a September 29, 1993 article, entitled ' ' published in (2) an October 10, 1993 article, entitled ' – an Athlete from Ostia becomes World Champion," published in , (3) an October 5, 1993 article, entitled ' ' published in , (4) a December 31, 1994 article, entitled ' ' published in , and (5) a January 22, 1996 article, entitled ' ' published in . Prior counsel also filed two *Wikipedia* articles about the publisher and but no information about *Metropolit*. In her August 18, 2010 decision, the director found that none of the articles that the petitioner has filed constitute published material about him in a professional or major publication or other major media, relating to his work in the sport of karate. On appeal, the petitioner contends that he meets this criterion. The AAO disagrees.

First, the AAO finds that the article published in *La Gazzetta Dello Sport* is not about the petitioner's work in the sport of karate. The article consists of one sentence, in which the petitioner's name is not mentioned, and a list of competition winners, in which the petitioner's last name, not his full

name, was noted two times. The petitioner has provided no legal basis upon which the AAO can conclude that this published material can be considered published material about the petitioner's work in the sport of karate. Moreover, although the petitioner has filed a *Wikipedia* article that indicates *La Gazzetta dello Sport* is an Italian newspaper dedicated to the coverage of various sports and it "sells over 400,000 copies daily" in Italy, the AAO finds that the *Wikipedia* article is insufficient to demonstrate that *La Gazzetta dello Sport* constitutes either a professional or a major trade publication or other major media. As there are no assurances about the reliability of the content from *Wikipedia*, an open, user-edited internet site, the AAO will not assign weight to information from it.[4] *See Laamilem Badasa v. Mukasey*, 540 F.3d 909 (8th Cir. 2008). Finally, the article does not specify its author, as required under the regulation at 8 C.F.R. § 204.5(h)(3)(iii).

Second, although the petitioner has filed a number of articles published in *Il Messaggero*, the only evidence he has filed about *Il Messaggero* is a *Wikipedia* article and a printout indicating that the newspaper sold 304,709 copies on March 22, 2010. As previously noted, due to its lack of assurances of content reliability, the AAO will not assign weight to information from a *Wikipedia* article. *See Laamilem Badasa*, 540 F.3d at 909. The AAO also will not assign weight to the printout, because it is mostly in Italian, with only one sentence translated into English, and because its source is unspecified. *See* 8 C.F.R. § 103.2(b)(3) ("Any document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English."). Moreover, other than the article entitled "Martial Arts: Karate – an Athlete from Ostia becomes World Champion," none of the other articles specify the author, as required under the regulation at 8 C.F.R. § 204.5(h)(3)(iii).

Finally, although the petitioner has filed a number of online printouts from the Italian State Police website, the petitioner has not shown that any of the online material constitutes an article that is published in a professional or major trade publication or other major media. The AAO also notes that none of the online material specify the author, as required under the regulation at 8 C.F.R. § 204.5(h)(3)(iii).

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criterion. Accordingly, the AAO concludes that he has abandoned this issue, as he did not timely raise it on appeal. *Sepulveda*, 401 F.3d at 1228 n.2; *Hristov*, 2011 WL 4711885 at *9.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii).

When the petitioner's prior counsel initially filed the visa petition, she asserted that the petitioner meets the leading or critical role criterion under the regulation at 8 C.F.R. § 204.5(h)(3)(viii), because (1) 'is interested in having [the petitioner] be the representative imagine of their [sic] organization and to play the lead position in training future athletes as well as competing on behalf of the organization; and (2) the petitioner "was selected as [a] trainer and mentor for the [Italian] national karate team from 2002 through 2007." In her response to the director's Request for Evidence, prior counsel again asserted that the petitioner meets this criterion. The director found that the petitioner has not met this criterion. The AAO agrees.

As supporting evidence, the petitioner has submitted a November 11, 2009 letter from inviting the petitioner "to teach one of the Masters Seminars – ' on January 16, 2010. The letter references that the petitioner taught a similar class in January 2009 for "which was a huge success." March 29, 2010 letter also references that the petitioner conducted seminars in November 2008 and April 2009 for In his April 23, 2009 letter, stated that intended to "feature [the petitioner] both as a competitor and as the representative face for He concluded his letter by expressing his "belief that [the petitioner] is essential for the progress of U.S. Karate . . . . [The petitioner] is the individual who could potentially lead [the] U.S. team to dominance."

At most, the letters might show that the petitioner is a valued trainer who has conducted three seminars before he filed the visa petition in December 2009, but they do not show that he has performed in a leading or critical role for Although speculated that the petitioner could play a role in training the U.S. karate team, at the time of the visa petition filing, the petitioner had not been involved with the U.S. karate team. In short, there is insufficient evidence in the record regarding the petitioner's position in the organizational hierarchy. The record also lacks sufficient evidence for the AAO to conclude that someone who has held three seminars in two years for which has an unspecified number of coaches and offers an unspecified number of seminars, has performed a leading or critical role for

Similarly, the AAO finds that the evidence does not show that at the time the petitioner filed the instant visa petition, he was performing a leading or critical role for According to the November 5, 2009 letter from the petitioner was a "mentor and trainer of the Italian national karate team from 2002 to 2007, and his "leadership . . . [was] vital to shape athletes that went to win international competitions, increasing the level of visibility of [the] team to the highest international levels allowed to a karate federation." She attached a list of 2002 to 2007 competition results of a number of karate athletes whom the petitioner had coached. It is unclear from the evidence how many coaches

8 C.F.R. § 204.5(h)(4). Moreover, the petitioner has not explained how a membership that does not meet the requirements of 8 C.F.R. § 204.5(h)(3)(iv) constitutes "comparable" evidence.

B. Summary

The petitioner has failed to satisfy the antecedent regulatory requirement of three types of evidence.

III. CONCLUSION

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.

Had the petitioner submitted the requisite evidence under at least three evidentiary categories, in accordance with the *Kazarian* opinion, the next step would be a final merits determination that considers all of the evidence in the context of whether or not the petitioner has demonstrated: (1) 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," and (2) "that the alien has sustained national or international acclaim and that his or his achievements have been recognized in the field of expertise." 8 C.F.R. § 204.5(h)(2) and (3); *see also Kazarian*, 596 F.3d at 1119-20. While the AAO concludes that the evidence, the most significant of which predates the filing of the instant petition by more than 15 years, is not indicative of a level of expertise consistent with the small percentage at the very top of the field or sustained national or international acclaim, the AAO need not explain that conclusion in a final merits determination.[5] Rather, the proper conclusion is that the petitioner has failed to satisfy the antecedent regulatory requirement of presenting three types of evidence. *Kazarian*, 596 F.3d at 1122.

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.

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[5] The AAO maintains *de novo* review of all questions of fact and law. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). In any future proceeding, the AAO maintains the jurisdiction to conduct a final merits determination as the office that made the last decision in this matter. 8 C.F.R. § 103.5(a)(1)(ii); *see also* INA §§ 103(a)(1), 204(b); DHS Delegation Number 0150.1 (effective March 1, 2003); 8 C.F.R. § 2.1 (2003); 8 C.F.R. § 103.1(f)(3)(iii) (2003); *Matter of Aurelio*, 19 I&N Dec. 458, 460 (BIA 1987) (holding that legacy INS, now USCIS, is the sole authority with the jurisdiction to decide visa petitions).