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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  
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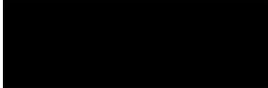
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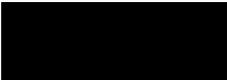
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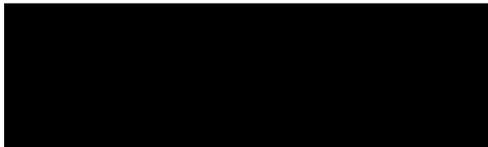
FILE: 

IN RE:

Petitioner:   
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:



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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen with the field office or service center that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to 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 May 21, 2008. On appeal, the Administrative Appeals Office (AAO) found that the petitioner did not meet his burden of establishing eligibility for the benefit sought and dismissed his appeal on October 4, 2010. The matter is now before the AAO on a motion to reopen and reconsider. The motion will be dismissed. The previous decision of the AAO will be affirmed, and the petition will remain denied.

#### I. Requirements of a Motion

The regulation at 8 C.F.R. § 103.5(a)(1)(iii) informs the public of the filing requirements for a motion and provides in pertinent part:

A motion shall be submitted on Form I-290B and may be accompanied by a brief. It must be:

- (A) In writing and signed by the affected party or the attorney or representative of record, if any;
- (B) Accompanied by a nonrefundable fee as set forth in § 103.7;
- (C) Accompanied by a statement about whether or not the validity of the unfavorable decision has been or is the subject of any judicial proceeding and, if so, the court, nature, date, and status or result of the proceeding;
- (D) Addressed to the official having jurisdiction; and
- (E) Submitted to the office maintaining the record upon which the unfavorable decision was made for forwarding to the official having jurisdiction.

A party seeking to reopen a proceeding bears a heavy burden and “must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence.” 8 C.F.R. § 103.5(a)(2). Based on the plain meaning of “new,” a new fact is evidence that was not available and could not have been discovered or presented in the previous proceeding. *See Matter of Singh*, 24 I&N Dec. 331, 334 (BIA 2007). Motions to reopen immigration proceedings are disfavored for the same reasons as are petitions for rehearing and motions for a new trial on the basis of newly discovered evidence. *INS v. Doherty*, 502 U.S. 314, 323 (1992) (citing *INS v. Abudu*, 485 U.S. 94, 108 (1988)). “There is a strong public interest in bringing litigation to a close as promptly as is consistent with the interest in giving the adversaries a fair opportunity to develop and present their respective cases.” *INS v. Abudu*, 485 at 107. Based on its discretion, “the INS [now the U.S. Citizenship and Immigration Services (USCIS)] has some latitude in deciding when to reopen a case. [USCIS] should have the right to be restrictive. Granting such motions too freely will permit endless delay of deportation by aliens creative and fertile enough to continuously produce new and material facts

sufficient to establish a prima facie case.” *Id.* at 108. The result also needlessly wastes the time and efforts of the triers of fact who must attend to the filing requests. *Id.*

A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or USCIS policy. 8 C.F.R. § 103.5(a)(3). A motion to reconsider contests the correctness of the original decision based on the previous factual record, as opposed to a motion to reopen which seeks a new hearing based on new or previously unavailable evidence. *See Matter of Cerna*, 20 I&N Dec. 399, 403 (BIA 1991).

A motion to reconsider cannot be used to raise a legal argument that could have been raised earlier in the proceedings. *See Matter of Medrano*, 20 I&N Dec. 216, 220 (BIA 1990, 1991). Rather, the “additional legal arguments” that may be raised in a motion to reconsider should flow from new law or a *de novo* legal determination reached in its decision that could not have been addressed by the party. Further, a motion to reconsider is not a process by which a party may submit, in essence, the same brief presented on appeal and seek reconsideration by generally alleging error in the prior decision. *Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006). Instead, the moving party must specify the factual and legal issues raised on appeal that were decided in error or overlooked in the initial decision or must show how a change in law materially affects the prior decision. *Id.* at 60.

In the instant motion, the petitioner failed to submit a statement indicating if the validity of the AAO’s October 4, 2010 unfavorable decision has been or is the subject of any judicial proceeding pursuant to the regulation at 8 C.F.R. § 103.5(a)(1)(iii)(C). The regulation at 8 C.F.R. § 103.5(a)(4) requires that “[a] motion that does not meet applicable requirements shall be dismissed.” Accordingly, the instant motion must be dismissed pursuant to the regulation at 8 C.F.R. § 103.5(a)(4) without regard to the claims contained within the motion.

## II. Eligibility for the Classification Sought

Notwithstanding the above noted fundamental defect in counsel’s motion, the AAO will review the merits of the motion. 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.

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 and 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) through (x). The petitioner must

submit qualifying evidence under at least three of the ten regulatory categories of evidence to establish the basic eligibility requirements.

In its October 4, 2010 decision, the AAO dismissed the petitioner's appeal, concluding that he has failed to meet at least three of the ten regulatory criteria under the regulation at 8 C.F.R. § 204.5(h)(3), and, in the AAO's final merits determination, that he failed to demonstrate that he has sustained national or international acclaim or that he is within a small percentage at the very top of the sport of karate or martial arts. *See* 8 C.F.R. § 204.5(h)(3). The AAO specifically and thoroughly discussed the criteria implicated by evidence the petitioner submitted, including the prizes or awards for excellence 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 participation as a judge criterion under 8 C.F.R. § 204.5(h)(3)(iv); the original contributions of major significance criterion under 8 C.F.R. § 204.5(h)(3)(v); the display of work at artistic exhibitions or showcases criterion under 8 C.F.R. § 204.5(h)(3)(vii); and the leading or critical role criterion under 8 C.F.R. § 204.5(h)(3)(viii).

In support of the instant motion, counsel has filed a brief and a number of documents. They are (1) an undated chart, entitled "Karate Player Selection Process Chart of Nepal Shotokan Karate Association," (2) an April 14, 2007 United States of America Shotokan Karate Federation (USA-SKF) Award of Excellence, (3) an April 14, 2007 USA-SKF International Masters Training Camp and Bunkai Symposium certification of participation, (4) an undated diploma issued by the 3rd Asian Friendship Karate Cup 2006, indicating that the petitioner finished in second place in the Kata event, (5) an undated diploma issued by the 3rd Asian Friendship Karate Cup 2006, indicating that the petitioner finished in first place in the Kumite event, (6) an October 16, 2010 letter from [REDACTED] (NKF), (7) an undated online printout about the Japan Karate Association's (JKA) Kyu and Dan rank certification system, (8) a copy of an October 2006 *Nepal Sports Forum* article, "Karate Experience, Three Months in America for Karate," (9) documents and photographs relating to the 2005 and 2006 Funakoshi Shotokan Karate Association (FSKA) World Championships, (10) a copy of certificate of merit issued by the Japan Shotokan Karate Association (JSKA), (11) an October 19, 2010 letters from [REDACTED] of the Nepal Shotokan Karate Association (NSKA), (12) a partial photocopy of the petitioner's USA National Karate Do Passport, issued by the United States of America National Karate Do Federation (USA-NKF), (13) a May 3, 2009 certificate, noting that the petitioner "has fulfilled the national requirements of the USA-NKF Referee Committee and is awarded recognition as Kumite Judge C," (14) a partial photocopy of the petitioner's Karate-Do Passport issued by World Karta Federation, (15) a September 25, 2010 certificate of appreciation issued by the "Federation of Indegenous [sic] People of Nepal in America," (16) a copy of a May 2010 article, entitled "Father and Son Won Gold Medal in Karate Championship, and (17) a copy of a May 2009 article, entitled "Karate Gurus are Giving Continuity to Their Skills." The petitioner had previously filed many of these documents. The AAO will address the relevant regulatory criteria below.<sup>1</sup>

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<sup>1</sup> As the petitioner did not raise any issues relating to the AAO's October 4, 2010 findings on the display of work at artistic exhibitions or showcases criterion under 8 C.F.R. § 204.5(h)(3)(vii) in the instant motion, the AAO considers it

*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).

With regard to the prizes or awards for excellence criterion, counsel asserts in the instant motion that the petitioner was awarded an April 14, 2007 USA-SKF Award of Excellence and an April 14, 2007 USA-SKF International Masters Training Camp and Bunkai Symposium certification of participation. Counsel asserts that USA-SKF gave the award and certificate to the petitioner in “recognition of his excellence in the field of Shotokan karate by the association of similar field in the United States and it is [an] international award.” First, with respect to the Award of Excellence, the AAO finds that the award is not new evidence, as the petitioner had submitted a photocopy of this award when he filed the petition in June 2007. Second, the AAO previously considered the award in its October 4, 2010 decision, and found that the award does not constitute a nationally or internationally recognized prize or award for excellence. Despite its title “Award of Excellence,” the award is actually a certificate that states:

This is to certify that [the petitioner] has participated in the 2007 USA-SKF International Masters Training Camp and Kata Bunkai Seminar.

We [USA-SKF] are proud of your [the petitioner's] great dedication to the art of Karate-Do and we look forward to your continued development in the true spirit of the Budo.

The petitioner has provided no other evidence relating to this award. As such, the AAO does not have any information relating to the nomination or selection criteria for the award, the number of people who received this award in 2007 or the number of people who participated in the 2007 training camp and seminar.

Second, with respect to the certificate of participation, the AAO finds that the petitioner has not timely provided this evidence. Although USA-SKF issued the certificate in April 2007, before the petitioner filed the petition in June 2007, the first time the petitioner provided a copy of the certificate to USCIS was when the petitioner filed the instant motion in November 2010. The petitioner has provided no evidence showing that the award constitutes “new” evidence, such that it was not available and could not have been discovered or presented in the previous proceeding. See *Matter of Singh*, 24 I&N Dec. at 334. Accordingly, the AAO will not consider it.

Even if the AAO were to consider this certificate, it would find that the certificate of participation does not constitute a nationally or internationally recognized prize or award for excellence. The certificate states:

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abandoned. See *Sepulveda v. United States Att'y Gen.*, 401 F.3d 1226, 1228 n. 2 (11th Cir. 2005); *Hristov v. Roark*, No. 09-CV-27312011, 2011 WL 4711885 at \*1, 9 (E.D.N.Y. Sept. 30, 2011) (the court found the plaintiff's claims to be abandoned as he failed to raise them on appeal to the AAO).

This is to certify that [the petitioner] has participated in the 2007 USA-SKF International Maters Training Camp and Kata Bunkai Seminar.

We [USA-SKF] are proud of your [the petitioner's] great dedication to the art of Karate-Do and we look forward to your continued development.

The certificate has virtually the verbatim language as the Award of Excellence. Moreover, as its name suggests, the certificate is nothing more than a certificate of the petitioner's participation in the event, not evidence of the petitioner's receipt of a nationally or internationally recognized prize or award for excellence, as required under the plain language of the criterion.

Next, counsel asserts that the petitioner's fourth place finish in the Kumite event and receipt [redacted] FSKA World Championship, and his first and second place finishes in two events in the 3rd Asian Friendship Karate [redacted] constitute nationally or internationally recognized prizes or awards for excellence in the sport of karate or martial arts. The instant motion includes no new evidence relating to the national or international recognition of these competitions. The AAO previously considered and decided this issue in its October 4, 2010 decision. Specifically, in finding that the petitioner has not met this criterion, the AAO noted:

The petitioner's awards are accompanied by no information about the division in which he competed, including how his competitions were nationally or internationally recognized in the field of karate or in the general area of martial arts. The petitioner did not submit evidence (such as official results) showing the number of participants in the competitive categories in which the petitioner received awards, the standing or recognition of the other participants in his categories, or any other indication that winning his awards conferred national or international recognition for excellence in karate or the martial arts.

Counsel has provided no additional evidence in support of the instant motion that addresses the abovementioned issues noted in the AAO's October 4, 2010 decision.

In his brief filed in support of the motion, counsel asserts that an individual must be "outstanding and stand on topmost [sic] among other player [sic] of [the] same field to represent a country to participate aboard." In other words, counsel contends that the fact that the petitioner participated in international competitions creates an inference that he has received nationally recognized prizes or awards for excellence. In support of this contention, the petitioner provides an undated chart, entitled "Karate Player Selection Process Chart of Nepal Shotokan Karate Association." The petitioner, however, has provided no information as to the source or the recentness of the chart, or evidence showing that the chart constitutes new evidence, such that it was not available and could not have been discovered or presented in the previous proceeding. *See Matter of Singh*, 24 I&N

Dec. at 334. Moreover, although the chart suggests that the NSKA distinguishes players based on their skills, and ranks them as district level players, regional players, national players and international participant players, the petitioner has provided no information on the number of players at each level or the percentage of players who have advanced from the lowest level – district level players, to the highest level – international participant players. NSKA's [REDACTED] October 19, 2010 letter also fails to clarify the selection process. As such, the AAO finds that counsel's assertion that the petitioner "stand[s] on topmost [sic] among other players" is not supported by documentary evidence. The unsubstantiated assertions of counsel do not satisfy the petitioner's burden of proof. See *Matter of Obaighena*, 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).

Finally, counsel contends that the petitioner's 2005 Best Player of the Year selection by NKF and a number of his medals from tournaments held in Nepal constitute nationally or internationally recognized prizes or awards for excellence. In support of this contention, counsel has filed (1) an October 16, 2010 letter from [REDACTED] which discusses the 2005 Best Player of the Year Award, and (2) a certificate of appreciation issued by the "Federation of Indegenous [sic] People of Nepal in America." Notwithstanding these documents, one of which counsel had previously filed, the AAO finds that the petitioner has not shown that any of the awards constitute a nationally or internationally recognized prize or award for excellence. As pointed out by the AAO in its October 4, 2010 decision, the petitioner's 2005 Best Player of the Year Award plaque misspells "Council" as "Counail." The petitioner has not provided any explanation for the misspelling in the instant motion. Moreover, although [REDACTED] letter indicates that three individuals were awarded the 2005 Best Player of the Year Award, it contains no information on the number of people who were eligible to be considered for the award, the number of people who were nominated for the award, or details relating to the nomination or selection process.

Similarly, the certificate of appreciation also contains spelling errors. Specially, the certificate indicates that it was issued by the "Federation of Indegenous [sic] People of Nepal in America," and it states that the "2nd Annual Sports Event" was organized by the "Federation of Indegenous [sic] People of Nepal in America in New York." The petitioner has not provided any explanation for the misspelling in the motion. Moreover, the petitioner has not provided information on the nomination or selection process of the certificate or any indication that being presented the certificate conferred the petitioner national or international recognition for excellence in the sport of karate or martial arts. Finally, the certificate is dated September 25, 2010, after the petitioner filed his petition in June 2007. It is well established that the petitioner must demonstrate eligibility for the petition at the time of filing. See 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971).

Moreover, the evidence submitted to show the recognition of the petitioner's awards is from the entities that issued the awards. Such self-promotional evidence has minimal evidentiary value. See *Braga v. Poulos*, No. CV 06 5105 SJO (CDCA 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.

Accordingly, after a review of all the evidence in the record, including evidence provided in the instant motion, the AAO again concludes that the petitioner has not provided documentation of his receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 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 counsel initially filed his brief in support of the petition in June 2007, he asserted that the petitioner was a member of JKA, FSKA, Karatenomichi World Federation (KWF), World Elite Black Belt Society (WEBBS) and NSKA. In its October 4, 2010 decision, the AAO concluded that the petitioner does not meet this criterion based on his membership in any of the abovementioned organizations. Neither counsel's motion nor any of the documents accompanying the motion overcomes the AAO's conclusions that the petitioner has not provided evidence showing that the five associations require outstanding achievements of their members, as judged by recognized national or international experts in the sport of karate or martial arts. Specifically, counsel contends in this motion that to "receive the level of Dan of JKA," an applicant "must be master in his skill[s]" and he "must be at least [a] black-belt . . . to participate in the test for Dan." Counsel files an undated online printout about JKA Kyu and Dan rank certification system to support his contention. The document, however, makes no reference to anyone needing to be "at least [a] black-belt" to be certified in Dan, and it makes no reference to JKA membership requirements. Also, although the document notes that the "[t]esting – or grading – is carried out by a panel of instructors authorized as JKA technical examiners," there is no evidence in the record showing that these examiners constitute recognized national or international experts, as required under the regulation at 8 C.F.R. § 204.5(h)(3)(ii).

Counsel next contends that to become a member in FSKA or KWF, an applicant must be "ranked at least [a] Black Belt or [an] Instructor," and that to become a member in WEBBS, an applicant must have a "minimum of three years [of training] and pass test to achieve Black Belt." Counsel has provided no information in his motion or through the accompanying evidence on how someone becomes a member of NSKA. Counsel has not provided any evidence or legal arguments supporting his position that being a black belt or an instructor constitutes an outstanding achievement. Nor has he provided any information on the percentage of people in the sport of karate or martial arts who are either a black belt or an instructor. Finally, as pointed out in the AAO's October 4, 2010 decision, "there is no evidence (such as membership bylaws or rules of admission) from [these organizations] showing that they require outstanding achievements of their members, as judged by recognized national or international experts in the petitioner's field."

Accordingly, after a review of all the evidence in the record, including evidence provided in the instant motion, the AAO again concludes that the petitioner has not provided documentation of 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 the sport of karate or martial arts. *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).

In his brief filed in support of the instant motion, counsel asserts that the petitioner's "capability and accepting challenge [sic] have been highly praised by the recognized critics in leading Nepalese daily and weekly newspapers, sports magazines." Counsel further states: "We hereby enclose internet extracts to support that the above newspaper [sic] are popular and widely circulated in Nepal."

First, the AAO observes that despite counsel's statement about having filed additional documents relating to the publications, none was provided with the instant motion. Second, as pointed out in the AAO's October 4, 2010 decision, the petitioner's evidence is deficient in that (1) six articles the petitioner had submitted do not list its author, as required under the regulation at 8 C.F.R. § 204.5(h)(3)(iii); (2) one article fails to list its date, as required under the regulation at 8 C.F.R. § 204.5(h)(3)(iii); (3) two articles are not "about the alien," as they are about the tournaments the petitioner participated in and they merely make reference to the petitioner's participation, and (4) six articles and an online article were not published in a professional or major trade publication or other major media. Neither counsel's motion nor any of the accompanying evidence overcomes these deficiencies pointed out in the AAO's October 4, 2010 decision.

Third, none of the evidence that counsel has filed in support of the instant motion – (1) a copy of an October 2006 *Nepal Sports Forum* article, "Karate Experience, Three Months in America for Karate," (2) a copy of a May 2010 article, entitled "Father and Son Won Gold Medal in Karate Championship," and (3) a copy of a May 2009 article, entitled "Karate Gurus are Giving Continuity to Their Skills" – meets this criterion. First, the petitioner had submitted the October 2006 article when he filed the petition in June 2007. As noted in the AAO's October 4, 2010 decision, the article fails to identify the author and there is no evidence in the record showing that the article was published in a professional or major trade publication or that it constitutes other major media. The remaining two articles are both dated after the petitioner filed his petition in June 2007. Specifically, one article is dated May 2009 and the other is dated May 2010. As noted, the petitioner must demonstrate eligibility for the petition at the time of filing. *See* 8 C.F.R. §§ 103.2(b)(1), (12). As such, articles dated after the filing of the petition do not constitute evidence of published material about the alien at the time the petition was filed. Moreover, there is no evidence that the two articles' publisher, *Everest Times*, is a professional or major trade publication or constitutes other major media.

Accordingly, after a review of all the evidence in the record, including evidence provided in the instant motion, the AAO again concludes that the petitioner has not provided evidence of published material about him in professional or major trade publications or other major media, relating to his sport of karate or martial arts. *See* 8 C.F.R. § 204.5(h)(3)(iii).

*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.*  
8 C.F.R. § 204.5(h)(3)(iv).

In his brief filed in support of the instant motion, counsel asserts that the petitioner meets the participation as a judge criterion because he served as [REDACTED] Asian Karate Championship on February 19, 2005.” As supporting evidence, counsel has filed (1) an October 19, 2010 letter from NSKA’s Amit Lama, stating that the petitioner “participated as a Referee in the panel of judge [sic]” in the 2005 First Asian International Shotokan Karate Championship and “performed duties of Referee on roll call basis on all events”; (2) an October 16, 2010 letter from [REDACTED] stating that the petitioner was “[a] Referee Judge in [the] First South Asian Shotokan Karate Championship held in February 19, 2005”; (3) an English translation of a certificate of merit issued by the JSKA, noting that the petitioner “performed duties as a Referee in the 1st Asian Karate Championship on February 19, 2005”; (4) a partial photocopy of the petitioner’s USA National Karate Do Passport, with handwritten notations of “National Kumite Referee Qualifications Record” from 2009 to 2010; (5) a May 3, 2009 certificate noting that the petitioner “has fulfilled the national requirements of the USA-NKF Referee Committee and is awarded recognition as Kumite Judge C”; and (6) a partial photocopy of the petitioner’s Karate-Do Passport, with handwritten notations of 2010 “National Referee Qualification and Licence [sic].”

The AAO will only consider evidence relating to the petitioner’s role as a referee in the February 2005 event, because all other evidence relates to occurrences after June 2007, when the petitioner filed his petition. *See* 8 C.F.R. §§ 103.2(b)(1), (12). According to counsel’s motion, during the February 2005 event, “there [were] three judges in [the] front sides corner of the arena and [a] referee conduct[ed] the match.” Counsel further states that “there are no doubts on [the petitioner’s] ability and fairness while performing duties as a Referee in this international championship because he was not taken any action and no dispute ar[o]se in the match.”

First, as pointed out in the AAO’s October 4, 2010 decision, the petitioner’s evidence is deficient in that it does not indicate or show (1) the individuals he refereed or the specific competitive categories to which he was assigned in the February 2005 event; (2) that karate referees actually judge competitors, such as assigning points or determining winners, rather than merely enforcing the rules and maintaining a sense of fair play; (3) the official competition rules for the championship indicating that serving as a referee in this instance equates to participating as a judge of work of others. Neither counsel’s motion nor any of the accompanying evidence overcomes these deficiencies. Accordingly, after a review of all the evidence in the record, including evidence provided in the motion, the AAO again finds that the petitioner has not presented evidence of his

participation, either individually or on a panel, as a judge of the work of others in the sport of karate or martial arts. *See* 8 C.F.R. § 204.5(h)(3)(iv).

*Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.* 8 C.F.R. § 204.5(h)(3)(v).

Although one of the headings in counsel's motion is entitled "[The Petitioner's] Artistic Contribution of Major Significances in the Field . . .", counsel has not pointed to any new evidence or stated the reasons for reconsideration in the body of the brief. Instead, he contends in a conclusory manner that the petitioner "has significant contributed in [the] development and promotion of the field." Counsel's unsubstantiated statement in the instant motion that the petitioner meets this criterion, without providing any legal, factual or evidentiary support, does not trigger the AAO to conduct a full analysis of the criterion, reopen or reconsider its earlier decision. *See Desravines v. United States Attorney General*, No. 08-14861, 343 F. App'x 433, 435 (11th Cir. 2009) (finding that issues not briefed on appeal by a pro se litigant are deemed abandoned); *Tedder v. F.M.C. Corp.*, 590 F.2d 115, 117 (5th Cir. 1979) (deeming abandoned an issue raised in the statement of issues but not anywhere else in the brief). Moreover, neither counsel's motion nor any of the documents accompanying the motion overcomes the lack of evidence relating to the petitioner's original contributions of major significance in the sport of karate or martial arts, as discussed in the AAO's October 4, 2010 decision.

Accordingly, the AAO again concludes that the petitioner has not presented evidence of his original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the sport of karate or martial arts. *See* 8 C.F.R. § 204.5(h)(3)(v).

*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).

Although one of the headings in counsel's motion is entitled "[The Petitioner's] has Performed in a Leading or Critical Role in Sports or Establishment [sic] that have a Distinguished Reputation", counsel has not pointed to any new evidence or stated the reasons for reconsideration in the body of the brief. Instead, he contends in a conclusory manner that the petitioner "has played a role of leadership in [the] development of Karate as a sports which contributed [to] Nepal Shotokan Association has been [sic] recognized worldwide." Counsel also states that the petitioner "promoted and initiated [sic] to open a new dojo (karate association) in Nepal resulting [in the] establishment of Japan Karate Association of Nepal (JKANepal)." It is unclear from the petitioner's evidence and counsel's motion what organization(s) or establishment(s) in which the petitioner has performed a leading or critical role. As such, counsel's unsubstantiated statement in the instant motion that the petitioner meets this criterion, without providing any legal, factual or evidentiary support, does not trigger the AAO to conduct a full analysis of the criterion, reopen or reconsider its earlier decision. *See Desravines*, 343 F. App'x at 435; *Tedder*, 590 F.2d at 117. Moreover, neither counsel's motion nor any of the documents accompanying the motion overcomes the lack of evidence relating to the

petitioner's performing in a leading or critical role for organizations or establishments that have a distinguished reputation, as discussed in the AAO's October 4, 2010 decision.

Accordingly, the AAO again concludes that the petitioner has not submitted evidence that he has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. *See* 8 C.F.R. § 204.5(h)(3)(viii).

### III. Conclusion

In conclusion, pursuant to the regulation at 8 C.F.R. § 103.5(a)(1), a motion must be accompanied by a statement indicating if the validity of the AAO's unfavorable decision has been or is the subject of any judicial proceeding. As the petitioner failed to submit such a statement accompanying his motion to reopen and reconsider, the regulation at 8 C.F.R. § 103.5(a)(4) requires that the motion be dismissed. Moreover, the AAO finds that the petitioner has not met its "heavy burden" of showing that the instant motion to reopen should be granted, because the petitioner has not stated new facts to be provided in the reopened proceeding, nor has the petitioner sufficiently supported the new facts with affidavits or other documentary evidence. *See* 8 C.F.R. § 103.5(a)(2). Furthermore, the AAO finds that the petitioner has not shown that the instant motion to reconsider should be granted, because the petitioner has not stated any valid reason for reconsideration, nor has the petitioner sufficiently supported any valid reason for reconsideration with pertinent precedent decisions establishing that the AAO's October 4, 2010 decision was based on an incorrect application of law or USCIS policy. *See* 8 C.F.R. § 103.5(a)(3). Accordingly, the instant motion to reopen and reconsider will be dismissed.

The burden of proof in visa petition proceeding remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden.

**ORDER:** The motion to reopen is dismissed. The decision of the AAO dated October 4, 2010 is affirmed, and the petition remains denied.