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U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
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U.S. Citizenship
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FILE: Office: NEBRASKA SERVICE CENTER Date: JUN 11 2009
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IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

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. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as an alien of exceptional ability in the arts. The petitioner seeks employment as a kickboxer and instructor. In the initial filing of the petition, the petitioner identified his prospective United States employer as Shotokan Karate Center II, Brooklyn, New York. Subsequent submissions have identified his employer as the Renzo Gracie Academy in New York. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as an alien of exceptional ability in the arts, but that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

On appeal, the petitioner submits a brief from counsel and several witness letters.

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

(2) Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability. --

(A) In General. -- Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

(B) Waiver of Job Offer.

(i) . . . the Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

The director did not dispute that the petitioner qualifies as an alien of exceptional ability. The director's sole adverse finding was that the petitioner had not established that a waiver of the job offer requirement, and thus a labor certification, is in the national interest.

Neither the statute nor the pertinent regulations define the term "national interest." Additionally, Congress did not provide a specific definition of "in the national interest." The Committee on the Judiciary merely noted in its report to the Senate that the committee had "focused on national interest by

increasing the number and proportion of visas for immigrants who would benefit the United States economically and otherwise. . . .” S. Rep. No. 55, 101st Cong., 1st Sess., 11 (1989).

Supplementary information to regulations implementing the Immigration Act of 1990 (IMMACT), published at 56 Fed. Reg. 60897, 60900 (November 29, 1991), states:

The Service [now U.S. Citizenship and Immigration Services (USCIS)] believes it appropriate to leave the application of this test as flexible as possible, although clearly an alien seeking to meet the [national interest] standard must make a showing significantly above that necessary to prove the “prospective national benefit” [required of aliens seeking to qualify as “exceptional.”] The burden will rest with the alien to establish that exemption from, or waiver of, the job offer will be in the national interest. Each case is to be judged on its own merits.

Matter of New York State Dept. of Transportation, 22 I&N Dec. 215 (Commr. 1998), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, it must be shown that the alien seeks employment in an area of substantial intrinsic merit. Next, it must be shown that the proposed benefit will be national in scope. Finally, the petitioner seeking the waiver must establish that the alien will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications.

It must be noted that, while the national interest waiver hinges on prospective national benefit, it clearly must be established that the alien’s past record justifies projections of future benefit to the national interest. The petitioner’s subjective assurance that the alien will, in the future, serve the national interest cannot suffice to establish prospective national benefit. The inclusion of the term “prospective” is used here to require future contributions by the alien, rather than to facilitate the entry of an alien with no demonstrable prior achievements, and whose benefit to the national interest would thus be entirely speculative.

We also note that the regulation at 8 C.F.R. § 204.5(k)(2) defines “exceptional ability” as “a degree of expertise significantly above that ordinarily encountered” in a given area of endeavor. By statute, aliens of exceptional ability are generally subject to the job offer/labor certification requirement; they are not exempt by virtue of their exceptional ability. Therefore, whether a given alien seeks classification as an alien of exceptional ability, or as a member of the professions holding an advanced degree, that alien cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in his or her field of expertise.

In a statement accompanying the initial filing of the petition on March 2, 2007, counsel stated:

[The petitioner] has amply demonstrated that he is a national champion kickboxer and instructor of exceptional ability, well recognized internationally and that he will definitely be a benefit to the cultural interests of the United States. Internationally recognized experts confirm that [the petitioner’s] performances and body of work has

and will substantially benefit and improve the areas of athletics and arts in the United States. Clearly, [the petitioner] will substantially benefit prospectively the national cultural interests of the United States and his outstanding reputation will ensure his success in this country.

. . . [H]e will also contribute greatly to the education of American children and adults in the art of kickboxing and corporeal expression. . . .

[The petitioner] has created innovative and unique techniques which will benefit the American kickboxing by virtue of his original contributions to the prominent field. . . .

[The petitioner's] preeminent level of talent, acumen, and expertise cannot be quantified because his exceptional skills are contingent upon his specialized knowledge in kickboxing. The instant petition is, therefore, outside the scope of the labor certification process.

Counsel did not persuasively explain why the "petition is . . . outside the scope of the labor certification process." If there exists a valid job offer from a United States employer, and if the employer is able to articulate minimum requirements for the position, then the labor certification process applies. Furthermore, section 203(b)(2)(B)(i) of the statute does not indicate that an alien shall receive a waiver if the position sought is "outside the scope of the labor certification process." Rather, the statute requires a showing that a waiver is in the national interest.

Documents submitted with the petition establish that the petitioner held World Kickboxing Association (WKA) Amateur United States Champion titles in 2003 and 2005 in his weight class, and that the petitioner was a member of the 2003 WKA United States National Team.

The petitioner also submitted witness letters from three other kickboxers in New York City. [REDACTED] stated:

After competing against international fighters, [the petitioner] captured the 2003 World Kickboxing Association welterweight title. In 2004 he earned his place on the US National team. In 2005 [the petitioner] fought the most talented fighters in his division and won the W.K.A. National lightweight title. [The petitioner] ended the year undefeated and qualified for the US National team. In 2006 [the petitioner] continued competing and defended his title two times, winning both these matches and retaining his US titles.

As a famous world renowned professional fighter and teacher, I, [REDACTED] can attest to [the petitioner's] Exceptional abilities not only as a fighter, but also as a coach. I myself continue to compete at the world class level, including the Pride Fighting Organization and International Fight League. For these matches, [the petitioner] has helped prepare myself and other noted professional fighters at my academy.

stated:

I am a professional Muay Thai Boxing fighter. I hold multiple W.K.A. local and national titles. I have been competing and teaching for over 10 years. I have fought in matches all over the world, competing at the highest levels of the sport.

. . . During these past 3 years I have been witness to [the petitioner's] national title contests and subsequent defenses of these titles. I was the lead trainer in his successful 2006 title defense against the highly respected

With my unique experience as a fighter, and my personnel [*sic*] observation I can highly recommend [the petitioner] as an athlete whose contributions to Thai Kickboxing are in the US national interests, as his record adequately shows.

stated:

I've known [the petitioner] for the past 5 years. . . . [The petitioner] is a 2-time National Thai Kickboxing Champion and has been chosen to represent the US national team in Thai Kickboxing 3 times. . . . With this wealth of experience at the national and international level, [the petitioner] has been able to teach and pass on many of the skills he obtained, through competition, to his students.

Being the former Tri-State & Northeastern US champion I know how hard it is to achieve such a level of success. I've worked with Jamie very frequently in training for my fights, to get me to this high level of readiness. It is very important to have seasoned and experienced training partners when training for a fight of this caliber. [The petitioner] has helped me in both my physical and mental preparation, which contributed heavily to my success in this sport.

On June 25, 2008, the director issued a request for evidence, instructing the petitioner to submit evidence that the petitioner's work is national in scope, as well as documentation to establish his contributions as an instructor and coach.

In response, counsel stated:

[The petitioner], as a coach, has created innovative and unique training and exercise methodology that benefit [*sic*] the American athletic and educational interests by virtue of his original and important contributions to the prominent field. . . . [The petitioner's] exercise and training methodology were featured in *Men's Fitness*, *Martin Rooney Training for Warriors*, and *Gracie Magazine*.

(Counsel's emphasis.) The submitted excerpt from *Training for Warriors* by ██████████ consists of illustrated exercise instructions, followed by "a list of the warriors that have helped shape me and subsequently, the *Training for Warriors* system." The list includes 59 names, including the petitioner's name. Prior to this list, the author provided "the short list of people . . . without whom this book would surely never have happened." The petitioner is not among the six people named in this shorter list. This information indicates that, while the petitioner is among dozens who contributed to the book in some way, there is no evidence that the book prominently featured any methods developed by the petitioner. The petitioner submitted a letter from ██████████ himself, who praised the petitioner's "impressive contributions" but did not mention *Training for Warriors* or credit the petitioner with contributing significantly to that book.

In his book, ██████████ did not specify the nature of the petitioner's contribution. The petitioner appears in several of the photographs illustrating the exercise routines.

A photocopied excerpt from the August 2008 issue of *Men's Fitness* includes illustrated workout instructions. Photographs show the petitioner demonstrating a technique called the Single-Leg Burpee. The petitioner's name does not appear in the submitted excerpt, either to identify him in the photographs or to credit him with creating or improving any exercise method or routine. The submission also does not identify the author of the article. It is significant, however, that identical photographs of the petitioner demonstrating the Single-Leg Burpee appear in ██████████ *Training for Warriors*.

We note that the petitioner filed his petition more than a year before the publication of the August 2008 issue of *Men's Fitness*. The beneficiary of an immigrant visa petition must be eligible at the time of filing. See *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Regl. Commr. 1971). Therefore, even if the petitioner had shown that the use of his image in that magazine was especially significant (which he has not done), this could not show that he already qualified for a national interest waiver in March 2007.

The September 2007 issue of *Gracie* magazine also appeared after the petition's filing date. Once again, the petitioner's only evident involvement is that he apparently posed for several photographs to illustrate exercise techniques. The article's author is ██████████, and the photographs appear to have been taken directly from ██████████'s book.

The published materials establish little except to show that the petitioner posed for photographs (possibly after the petition's filing date) which subsequently appeared in a number of publications.

Counsel stated that the petitioner's "past and present contributions towards improving the prestige of American standing in kickboxing demonstrate that the prospective benefits that he will confer upon the United States are indeed national if not international in scope." The claim that the petitioner has "improv[ed] the prestige of American standing in kickboxing" demands evidence to show not only that this prestige has improved during the petitioner's career, but also that the petitioner is significantly responsible for that improvement. Rather than cite any specific evidence to that effect, however,

counsel asserted that the petitioner's impact is "unquantifiable." Counsel did not explain how counsel was, nevertheless, able to discern that the petitioner has improved the prestige of American standing in kickboxing.

The petitioner submitted new letters from kickboxing fighters and trainers in or near New York City. stated:

My I.F.L. [International Fight League] fight team won the world title in 2007. [The petitioner] was a committed coach and member of my team. I have been personally coached by [the petitioner] for my domestic and international fights, as have all of my professional fighters at my N.Y.C. Academy. . . .

I hereby acknowledge [the petitioner's] abilities as both a fighter and a coach. His expertise is to be recognized as above the threshold of exceptional ability. . . . [The petitioner] has coached team and individuals to the world title status, which substantially exceeds the effect that could be expected of any U.S. worker in his field.

stated:

I . . . have been a professional fighter and trainer for the past two years. During this time I have been a national level squad member of the 2007 World Champion International Fight League team. I placed in top contention in the Brazilian World Championships, and I am also a two time pan American games [*sic*] medalist.

With [the petitioner's] teaching over the last three years, I have come to achieve U.S. national recognition having fought five professional fights all televised throughout the U.S.

stated:

I have been competing for over ten years, I am an Empire State Games Champion, National regional Champion, all American national Greco Roman champion. I qualified for the national U.S. team and was a member of the 2007 World Champion Pitbulls team.

[The petitioner] is responsible for My Muay Thai training over the past two and a half years, his expertise and knowledge greatly improved my ability and performance, enabling me to excel and win my place on the national Pitbulls fight team, and eventually win the I.F.L. World Title.

With regard to the two letters quoted above, accompanying printouts from [redacted] and [redacted], both dated July 30, 2008, identified [redacted], not the petitioner, as the coach of both [redacted] and [redacted]

Other athletes and trainers, all in the vicinity of New York City, attested to the petitioner's national titles and memberships on national teams, and asserted that the petitioner had trained many prominent fighters. Witnesses indicated that the New York Pitbulls won the 2007 IFL World Team Championship due to the petitioner's work, but the record contains no first-hand documentary information about the championship to show the extent of the petitioner's involvement.

The director denied the petition on September 29, 2008. The director did not contest the intrinsic merit or national scope of the petitioner's occupation, but found that "the petitioner's past record as an outstanding Kick-boxer does not in itself establish prospective future benefit to the national interest as a coach or trainer." The director found "there is no evidence that *independent coaches and trainers* view the petitioner's individual work as particularly significant or influential." The director found no evidence that the petitioner had contributed significantly to *Training for Warriors*.

On appeal, counsel argues that the director "failed to consider the highly relevant evidence proffered by prestigious individuals in the field attesting to Petitioner's exceptional ability as a Coach/Trainer." The director, however, stated: "The record further indicates that peers in the field recognize the petitioner as an exceptional kick-boxing coach/trainer." The record, therefore, directly contradicts counsel on this point. We will discuss the exceptional ability issue in further detail later in this decision. It will suffice, for now, to observe that aliens of exceptional ability are normally subject to the job offer/labor certification requirement. An alien does not qualify for a national interest waiver simply by submitting letters – regardless of their quantity – crediting the alien with exceptional ability.

Counsel claims: "It is indisputable that the Petitioner/Applicant is a world-renowned Trainer and Coach." This proposition is far from "indisputable," and counsel cannot cut off discussion of the matter simply by declaring it to be beyond argument. Counsel further contends that a number of witnesses have achieved "national prominence" or are "known worldwide," but the unsupported assertions of counsel do not constitute evidence. *See Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). The petitioner, in this proceeding, has presented no factual claims that are so obvious that further evidence is unnecessary. Rather than produce such evidence, counsel has claimed that the director behaved in an "unfairly prejudicial" manner by failing to accept the hyperbolic and self-serving claims put forth in support of the petition.

Counsel asserts that the director gave insufficient consideration to witness letters that attest to the petitioner's reputation. Counsel does not, however, explain why the petitioner's claimed reputation is so poorly documented that no evidence of this reputation exists except in the form of letters specially solicited for the petition. Certificates attest to the petitioner's past championship titles, but they do not imply comparable expertise as a coach or trainer.

Counsel states: "It must be emphasized that the Petitioner is truly exceptional and widely acclaimed and is a defending champion in welterweight kickboxing and a coach for well known athletes for

which he has received tremendous recognition both in the United States and abroad.” These assertions must be not only emphasized, but proven as well. With regard to the repeated assertion that the petitioner “is a defending champion,” the record contains no documentation to show that he has competed since 2005.

Regarding the director’s finding that [REDACTED] did not credit the petitioner as being a particularly significant contributor to *Training for Warriors*, counsel asserts that the director “prejudicially discounted the relevance and probative value of [REDACTED] statement.” The petitioner submits a second copy of [REDACTED] letter on appeal. Review of this letter confirms that [REDACTED] did not mention the book at all in his letter.

New witness letters accompany the appeal. [REDACTED], who knows the petitioner “professionally as well as personally,” states: “As an Olympic team member, and a former coach of the Olympic Training Center, it is my professional opinion that [the petitioner] is clearly a coach of outstanding and exceptional qualities. . . . His record speaks for itself.” [REDACTED] identifies himself as an Olympic athlete, but does not identify his sport.

[REDACTED], who identifies himself as a welterweight world champion, states: “For the past 3 years I have been coached by [the petitioner] in the art of Muay Thai kickboxing. . . . He has helped me to reach the pinnacle of the Mixed Martial Arts World.”

[REDACTED] who also identifies himself as a welterweight world champion, states: “Having [the petitioner] as my Muay Thai coach has undoubtedly contributed to me reaching the highest level in this sport.”

Neither of the above two witnesses indicate that their championships are in the sport of Muay Thai kickboxing, or that the petitioner has ever been their primary coach.

The remaining two witnesses work in fields unrelated to kickboxing. [REDACTED] a detective with the New York County District Attorney’s office, has “had the pleasure of knowing [the petitioner] for approximately 6 years. I have found him to be a respectful, hard working, law abiding and very dependable person.” The letter provides little except for general praise for the petitioner’s personal character.

Chief Executive Officer of Deutsche Bank Securities, Inc., “first met [the petitioner] when I attended one of [his] Muay Thai Boxing classes. Since then, I have gotten to know [the petitioner] extremely well. . . . As the Chief Executive of the US operations of a major financial institution, I feel well qualified to write this letter on [the petitioner’s] behalf.” It is not immediately clear how a financial executive is “well qualified” to attest to the abilities and reputation of a martial arts coach.

The director denied the petition in large part because the petitioner relied heavily on letters from clients and acquaintances rather than objective, independent documentation. The petitioner, on

appeal, cannot remedy this deficiency by submitting more letters from clients and acquaintances (some of them not even in the field of athletics) instead of objective, independent documentation. Counsel is of little help in this regard, calling some of the petitioner's claims "indisputable" in lieu of actually documenting them beyond dispute.

Here, we do not make a categorical finding that it is impossible for the petitioner to qualify for the national interest waiver. As counsel has observed, sports coaches are eligible for consideration for the waiver. We do, however, find that the petitioner, in this proceeding with the evidence submitted, has failed to meet his burden of proof to establish that he qualifies for the waiver. This is not a definitive finding of ineligibility, but a finding that the petitioner has not demonstrated eligibility.

Having affirmed the director's decision to deny the application for a national interest waiver, we turn to the director's other finding, regarding the petitioner's claim of exceptional ability in the arts. The director stated:

The record in this case indicates that the petitioner was a World Kick-boxing Association (WKA) Welterweight full contact USA Kick-boxing champion in 2003. Furthermore, the petitioner was an official member of the 2005 WKA U.S. amateur national team. The petitioner was also a WKA USA amateur light welter weight kick-boxing champion in 2005. The petitioner is currently working as a coach at the prestigious Renzo Gracie Kick-Boxing Academy in New York City. The record further indicates that peers in the field recognize the petitioner as an exceptional kick-boxing coach/trainer.

Review of the record leads us to revisit this finding. The AAO maintains plenary power to review each appeal on a *de novo* basis. 5 U.S.C. § 557(b) ("On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule."); *see also Janka v. U.S. Dept. of Transp., NTSB*, 925 F.2d 1147, 1149 (9th Cir. 1991). The AAO's *de novo* authority has been long recognized by the federal courts. *See, e.g., Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989).

The USCIS regulation at 8 C.F.R. § 204.5(k)(3)(ii) states that, to show that the alien is an alien of exceptional ability in the sciences, arts, or business, the petition must be accompanied by at least three of the following:

(A) An official academic record showing that the alien has a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning relating to the area of exceptional ability;

(B) Evidence in the form of letter(s) from current or former employer(s) showing that the alien has at least ten years of full-time experience in the occupation for which he or she is being sought;

(C) A license to practice the profession or certification for a particular profession or occupation;

(D) Evidence that the alien has commanded a salary, or other remuneration for services, which demonstrates exceptional ability;

(E) Evidence of membership in professional associations; or

(F) Evidence of recognition for achievements and significant contributions to the industry or field by peers, governmental entities, or professional or business organizations.

If the above standards do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence to establish the beneficiary's eligibility. 8 C.F.R. § 204.5(k)(3)(iii).

The evidentiary standards at 8 C.F.R. § 204.5(k)(3)(ii)(A) through (F) are requirements, rather than optional or suggested guidelines. Furthermore, the "comparable evidence" clause at 8 C.F.R. § 204.5(k)(3)(iii) applies only when the specified standards do not readily apply to the beneficiary's occupation. If the standards do readily apply to the occupation overall, then the petitioner's personal inability to meet those criteria cannot suffice to trigger the "comparable evidence" provision. Neither the petitioner nor counsel (nor the director) has the discretion to arbitrarily substitute other claimed evidence of exceptional ability in place of regulatory standards that readily apply to the petitioner's occupation. The submission of a series of witness letters, each describing the petitioner as "exceptional," cannot and will not suffice as evidence of exceptional ability.

In this instance, the petitioner and counsel have never addressed the regulatory requirements relating to exceptional ability. Instead, in the initial submission, counsel cited only two factors: the petitioner's "numerous trophies and awards" and "testimonial letters" from "numerous prestigious individuals." The petitioner's awards amount to evidence of recognition that satisfies 8 C.F.R. § 204.5(k)(3)(ii)(F), but he still must satisfy at least two of the remaining five criteria, or demonstrate that those criteria do not readily apply to his occupation.

In the RFE, the director stated: "The evidence submitted with the petition does not show that the petitioner is an alien of exceptional ability as a kick boxing instructor/coach." The director referred to 8 C.F.R. § 204.5(k)(3)(ii). The petitioner's response to the RFE, however, failed to address the requirements set forth in the cited regulation. Instead, counsel stated:

We respectfully submit that [the petitioner] qualifies for classification as an Alien of Exceptional Ability in the Arts pursuant to 8 C.F.R. § 204.5(k)(3)(ii). [The petitioner] has most definitely risen to the top in the field of kickboxing as well as in coaching and as a person with exceptional ability in the arts. He has been widely recognized as one of the most talented and foremost kickboxers in the United States and abroad.

Unquestionably, his exceptional ability in the arts exceeds that ordinarily encountered by one customarily employed in the arts.

Counsel acknowledged the existence of 8 C.F.R. § 204.5(k)(3)(ii), but made no effort to explain how the petitioner's evidence meets the standards set forth in the cited regulation. Instead, without explanation, counsel substituted an *ad hoc* series of standards, stating that the petitioner has earned "world recognition" and "trained world famous athletes," and that the witness letters establish his exceptional ability.

Analysis of the available evidence indicates that the petitioner has satisfied only two of the six criteria at 8 C.F.R. § 204.5(k)(3)(ii), and that the petitioner has provided nothing that would trigger the "comparable evidence" clause at 8 C.F.R. § 204.5(k)(3)(iii) by showing that the standards do not readily apply to the petitioner's occupation.

An official academic record showing that the alien has a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning relating to the area of exceptional ability. 8 C.F.R. § 204.5(k)(3)(ii)(A)

The petitioner claims no post-secondary education.

Evidence in the form of letter(s) from current or former employer(s) showing that the alien has at least ten years of full-time experience in the occupation for which he or she is being sought. 8 C.F.R. § 204.5(k)(3)(ii)(B)

The record is virtually silent regarding the petitioner's activities prior to 2003. Vague assertions that the petitioner has been a martial artist for decades are not evidence of full-time experience in the occupation he seeks.

A license to practice the profession or certification for a particular profession or occupation. 8 C.F.R. § 204.5(k)(3)(ii)(C)

The petitioner holds a license issued by the New Jersey State Athletic Control Board. The record does not show whether this is required (in which case the license is routine rather than exceptional). Therefore, the evidence is insufficient to show that this license is evidence that the petitioner's expertise exceeds what is normally encountered in his field.

Evidence that the alien has commanded a salary, or other remuneration for services, which demonstrates exceptional ability. 8 C.F.R. § 204.5(k)(3)(ii)(D)

The record contains no evidence regarding the petitioner's compensation.

Evidence of membership in professional associations. 8 C.F.R. § 204.5(k)(3)(ii)(E)

The petitioner's membership on national teams appears to be comparable to membership in professional associations where exceptional ability is a condition for membership. The petitioner satisfies this criterion.

Evidence of recognition for achievements and significant contributions to the industry or field by peers, governmental entities, or professional or business organizations.
8 C.F.R. § 204.5(k)(3)(ii)(F)

As noted previously, the petitioner's championship titles satisfy this criterion. The regulations, however, clearly indicate that championship titles are not sufficient proof of exceptional ability.

The petitioner has only partially satisfied the regulatory requirements at 8 C.F.R. § 204.5(k)(3)(ii). Therefore, we cannot agree with the director's finding that the petitioner has satisfactorily established that he qualifies as an alien of exceptional ability in the arts.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternative basis for denial. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.