

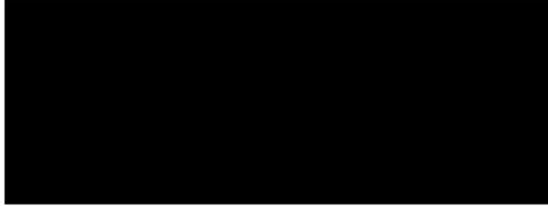
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER

Date: OCT 05 2010

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Petition for a Nonimmigrant Worker under Section 101(a)(15)(O)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(O)(i)

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 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 \$585. 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, California Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner filed this nonimmigrant petition seeking to classify the beneficiary as an O-1 nonimmigrant pursuant to section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the Act), as an alien with extraordinary ability in athletics. The petitioner, a non-profit sports club, seeks to employ the beneficiary as a judo athlete for a period of three years.

The director denied the petition, finding that the petitioner failed to establish that the beneficiary has achieved sustained national or international acclaim in his field or that he is one of the small percentage of athletes who have risen to the very top of the sport of judo. The director found that the evidence submitted failed to satisfy the criterion set forth at 8 C.F.R. § 214.2(o)(3)(iii)(A) or three of the eight criteria set forth at 8 C.F.R. § 214.2(o)(3)(iii)(B).

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On appeal, counsel for the petitioner asserts that the director failed to consider relevant evidence pertaining to the evidentiary criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B). Specifically, counsel contends that the petitioner submitted evidence to satisfy the criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B)(1), (2), (3), and (7). Counsel submits a brief and additional evidence in support of the appeal.

For the reasons discussed below, we concur with the director's determination that the petitioner has not demonstrated that the beneficiary has the necessary sustained national or international acclaim as a judo athlete or coach to qualify as an alien of extraordinary ability in athletics.

I. The Law

Section 101(a)(15)(O)(i) of the Act, 8 U.S.C. § 1101(a)(15)(O)(i), provides for the classification of a qualified alien who:

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, and seeks to enter the United States to continue work in the area of extraordinary ability

The extraordinary ability provisions of this visa classification are intended to be highly restrictive for aliens in the fields of business, education, athletics, and the sciences. *See* 59 FR 41818, 41819 (August 15, 1994); 137 Cong. Rec. S18242, 18247 (daily ed., Nov. 26, 1991) (comparing and discussing the lower standard for the arts). In a policy memorandum, the legacy Immigration and Naturalization Service emphasized: "It must be remembered that the standards for O-1 aliens in the fields of business, education, athletics, and the sciences are extremely high. The O-1 classification should be reserved only for those aliens who have reached the very top of their occupation or

profession." Memorandum, Lawrence Weinig, Acting Asst. Comm'r., Immigration and Naturalization Service, "Policy Guidelines for the Adjudication of O and P Petitions" (June 25, 1992).

The regulation at 8 C.F.R. § 214.2(o)(3)(ii) defines, in pertinent part:

Extraordinary ability in the field of science, education, business, or athletics means a level of expertise indicating that the person is one of the small percentage who have arisen to the very top of the field of endeavor.

The regulation at 8 C.F.R. § 214.2(o)(3)(iii) states, in pertinent part:

Evidentiary criteria for an O-1 alien of extraordinary ability in the fields of science, education, business or athletics. An alien of extraordinary ability in the fields of science, education, business, or athletics must demonstrate sustained national or international acclaim and recognition for achievements in the field of expertise by providing evidence of:

- (A) Receipt of a major, internationally recognized award, such as the Nobel Prize; or
- (B) At least three of the following forms of documentation:
 - (1) Documentation of the alien's receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor;
 - (2) 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 or international experts in their disciplines or fields;
 - (3) Published material in professional or major trade publications or major media about the alien, relating to the alien's work in the field for which classification is sought, which shall include the title, date, and author of such published material, and any necessary translation;
 - (4) Evidence of the alien's participation on a panel, or individually as a judge of the work of others in the same or in an allied field of specialization to that for which classification is sought;
 - (5) Evidence of the alien's original scientific, scholarly, or business-related contributions of major significance in the field;

- (6) Evidence of the alien's authorship of scholarly articles in the field, in professional journals, or other major media;
 - (7) Evidence that the alien has been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation;
 - (8) Evidence that alien has either commanded a high salary or will command a high salary or other remuneration for services, evidenced by contracts or other reliable evidence.
- (C) If the criteria in paragraph (o)(3)(iii) of this section do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence in order to establish the beneficiary's eligibility.

The decision of U.S. Citizenship and Immigration Services (USCIS) in a particular case is dependent upon the quality of the evidence submitted by the petitioner, not just the quantity of the evidence. The mere fact that the petitioner has submitted evidence relating to three of the criteria as required by the regulation does not necessarily establish that the alien is eligible for O-1 classification. 59 Fed Reg at 41820.

In determining the beneficiary's eligibility under these criteria, the AAO will follow a two-part approach set forth in a 2010 decision issued by the U.S. Court of Appeals for the Ninth Circuit. *Kazarian v. USCIS*, 2010 WL 725317 (9th Cir. March 4, 2010). Similar to the regulations governing this nonimmigrant classification, the regulations reviewed by the *Kazarian* court require the petitioner to submit evidence pertaining to at least three out of ten alternative criteria in order to establish a beneficiary's eligibility as an alien with extraordinary ability. *Cf.* 8 C.F.R. § 204.5(h)(3).

Specifically, the *Kazarian* 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)." *Id.* at *6 (citing to 8 C.F.R. § 204.5(h)(3)). The court also explained the "final merits determination" as the corollary to this procedure:

If a petitioner has submitted the requisite evidence, USCIS determines whether the evidence demonstrates both a "level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the[ir] field of endeavor," 8 C.F.R. § 204.5(h)(2), and "that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." 8 C.F.R. § 204.5(h)(3). Only aliens whose achievements have garnered "sustained national or international acclaim" are eligible for an "extraordinary ability" visa. 8 U.S.C. § 1153(b)(1)(A)(i).

Thus, *Kazarian* sets forth a two-part approach where the evidence is first counted and then, if qualifying under at least three criteria, considered in the context of a final merits determination. The final merits determination analyzes whether the evidence is consistent with the statutory requirement of "extensive documentation" and the regulatory definition of "extraordinary ability" as "one of that small percentage who have risen to the very top of the field of endeavor."

The AAO finds the *Kazarian* court's two-part approach to be appropriate for evaluating the regulatory criteria set forth for O-1 nonimmigrant petitions for aliens of extraordinary ability at 8 C.F.R. § 214.2(o)(3)(iii), (iv) and (v). Therefore, in reviewing Service Center decisions, the AAO will apply the test set forth in *Kazarian*. As the AAO maintains *de novo* review, the AAO will conduct a new analysis if the director reached his or her conclusion by using a one-step analysis rather than the two-step analysis dictated by the *Kazarian* court. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004) (noting that the AAO reviews appeals on a *de novo* basis).

In the present matter, the petitioner has submitted evidence pertaining to five of the evidentiary criteria, but has not established that the beneficiary has risen to the very top of his field or that he has sustained national or international acclaim and recognition. 8 C.F.R. §§ 214.2(o)(3)(ii) and (iii).

II. Analysis

The record consists of a petition with supporting documentation, a request for additional evidence (RFE) and the petitioner's reply, the director's decision, an appeal and brief, and additional evidence supporting the appeal. The beneficiary in this case is a 26-year-old native and citizen of Armenia. The record shows that the beneficiary has competed in national and international Judo competitions since 1996. According to the beneficiary's resume, his coaching experience includes employment as a trainer at the Yerevan Specialized School of Olympic Reserve of Judo and Sambo of Armenia Regional Union, and experience as an assistant coach on the Armenian Judo National Team and Armenian Judo Olympic Team. The petitioner relies primarily on the beneficiary's achievements as a competitive athlete to establish the beneficiary's eligibility.

The petitioner seeks to hire the beneficiary as a Judo athlete. Counsel stated in her letter dated February 24, 2009 that it seeks to employ him "to compete on behalf of the Club and to perform and demonstrate for all the members and also to work with the rest of the Judo professionals at the Club developing a curriculum that is recognized national and internationally." While it appears that the beneficiary would serve as both athlete and trainer for the petitioning organization, the AAO is satisfied that the beneficiary will "continue work in the area of extraordinary ability." Section 101(a)(15)(O)(i) of the Act, 8 U.S.C. § 1101(a)(15)(O)(i)

Given the nexus between athletic competition and coaching or sports instruction, in a case where an alien has clearly achieved national or international acclaim as an athlete and has sustained that acclaim in the field of coaching at a national or international level, an adjudicator may consider the totality of the evidence as establishing an overall pattern of sustained acclaim and extraordinary ability such that it can be concluded that coaching or training is within the beneficiary's area of expertise.

A. Evidentiary Criteria

At the outset, it is critical to reiterate that simply submitting evidence to satisfy the evidentiary criteria will not automatically establish eligibility for this visa classification. The mere fact that the petitioner has submitted evidence relating to three of the criteria as required by the regulation does not necessarily establish that the alien is eligible for O-1 classification. 59 Fed Reg. 41818, 41820 (August 15, 1994).

If the petitioner establishes through the submission of documentary evidence that the beneficiary has received a major, internationally recognized award pursuant to 8 C.F.R. § 214.2(o)(3)(iii)(A), then it will meet its burden of proof with respect to the beneficiary's eligibility for O-1 classification. The petitioner does not claim that the beneficiary qualifies for O-1 classification on the basis of his receipt of a major, internationally recognized award.

Accordingly, the petitioner must establish the beneficiary's eligibility under at least three of the eight criteria set forth at 8 C.F.R. § 214.2(o)(3)(iii)(B). The petitioner has indicated that the beneficiary meets the criteria at 8 C.F.R. §§ 214.2(o)(3)(iii)(B)(1), (2), (3), (4) and (7), and submits documentation relevant to these criteria only. As such, the remaining three criteria will not be addressed in this decision.

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

To meet criterion number one, the petitioner must submit documentation of the alien's receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 214.2(o)(3)(iii)(B)(1).

The petitioner indicates that the beneficiary can meet this criterion based on the following awards:

- [REDACTED], 73kg weight class
- [REDACTED], 66 kg weight class
- [REDACTED]

The petitioner submitted supporting documentary evidence in the form of official entry requirements from the sponsoring organizations of these events as well as published articles to establish the significance of the events within the sport. The director determined that the beneficiary meets this criterion.

The AAO concurs with the director that the submitted evidence satisfies the plain language of this evidentiary criterion. The petitioner has demonstrated that the above-referenced competitions are considered nationally or internationally-recognized events within the sport of Judo.

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 or international experts in their disciplines or fields

In order to establish that the beneficiary meets the second criterion, at 8 C.F.R. § 214.2(o)(3)(iii)(B)(2), the petitioner must document 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.

The petitioner submitted a letter dated July 12, 2007 and a certificate dated November 6, 2008 from the [REDACTED] which indicate that the beneficiary is a member of the [REDACTED]. The petitioner also submitted a letter from the [REDACTED] which indicates that the beneficiary was an assistant coach of the [REDACTED], and assistant coach of the [REDACTED]. In response to the RFE, the petitioner submitted additional evidence related to the criteria for selection of members of the national team, noting that members are chosen by the [REDACTED] the national governing body of the sport. In a letter dated April 14, 2009, [REDACTED] the [REDACTED] stated:

In Armenian judo federation the selection of the athlete for the national team is based on the results of the Armenian championships, Armenian cups and the international championships. [The beneficiary] is the member of the Armenian Judo Federation from 2005. [The beneficiary] is the member of [REDACTED] and he is the member of the [REDACTED]

Both [REDACTED] are [sic] consists of 36 members.

The director found that the submitted evidence meets this criterion and the AAO concurs. Specifically, the beneficiary meets this criterion based on his selection for Armenia's national team by the national governing body in his sport, which can be considered a recognized national expert in the discipline.

Published material in professional or major trade publications or major media about the alien, relating to the alien's work in the field for which classification is sought

To meet the third criterion, the petitioner must submit published material in professional or major trade publications or major media about the alien, relating to the alien's work in the field for which classification is sought, which shall include the title, date, and author of such published material, and any necessary translation. 8 C.F.R. § 214.2(o)(3)(iii)(B)(3).

To meet this criterion, the petitioner initially submitted the following:

- The results of a Yahoo Internet search for the beneficiary
- An advertisement for [REDACTED] designed and endorsed by Olympian and World Champion [REDACTED] which appeared in the [REDACTED]

██████████ The advertisement consists of a photograph in which ██████████ is throwing the beneficiary.

- An article titled '██████████' which was published on the website of ██████████ on September 27, 2008. The article includes an account of the beneficiary's loss to ██████████ in the 73kg division gold medal round.
- An article titled "From Rotterdam to Prague, then Back to Yerevan" which was published on the Armenian news website "A1+" (<http://www.a1plus.am>) on September 25, 2007. The article mentions that the beneficiary was among the members of the ██████████ ██████████.
- Excerpts from the September 1997 issue of *SportEurope*, the European Olympic Committee's official magazine. The magazine includes an article on the European Youth Olympic Days competition held in Lisbon, Portugal, and a photograph of the young athletes bearing the flags of their countries. The petitioner identifies the beneficiary on the photograph ██████████. The magazine also reports the results of the Judo competition and identifies the beneficiary as the ██████████ ██████████.

In an RFE issued on March 5, 2009, the director acknowledged the initial evidence submitted to meet this criterion. The director noted that it appears that USA Judo publishes the results of all events it sanctions and found the submitted article does not satisfy the requirement that the petitioner submit published material from a major trade publication or other major media about the alien. The director further noted that the "article" from ██████████ and could not be deemed an article about the beneficiary.

The director requested that the petitioner submit articles that have been written directly about the beneficiary, and instructed the petitioner to provide evidence of the circulation of each publication.

In a response dated April 14, 2009, counsel for the petitioner further addressed the photograph of the beneficiary that appeared in *SportEurope*, noting:

In 1997, as one of the best youth athletes in Armenia, [the beneficiary] was selected as the ██████████ held in Lisbon, Portugal and we consider this a great honor and recognition for [the beneficiary] as a judo athlete and we are providing additional evidence to support this claim.

The petitioner submitted published three published articles relating to Canadian and American athletes selected for ██████████, and information regarding the selection criteria used by the U.S. and Canadian Olympic teams. Counsel emphasized that the beneficiary's selection ██████████ "is an internationally recognized great honor and publicity for him as an athlete." Counsel asserted that "[the

beneficiary's] name and picture and his competition results published in [*SportEurope*] provides strong support for his claim under the publicity criterion."

The petitioner also submitted new evidence pertaining to articles regarding the beneficiary that have appeared in the following Armenian publications: *Azg (Nation)*, described as a major national daily newspaper with a circulation of 4,000; *Marzakan Hayastan (Sports Armenia)*, described as a national news daily with a focus on domestic sports news; *Marz Ashxar (Sports World)*, described as a national sports weekly newspaper focusing on international sports competitions; and *Hay Zinvor (Armenian Soldier)*, a national weekly newspaper published by the Ministry of Defense with a circulation of 10,000.

To establish that the articles represent published material in major media, the petitioner submitted an article regarding the Armenian press from the website www.pressreference.com. The article identifies *Azg* as the second largest daily paper in the country and *Hay Zinvor* as among the largest non-daily publications. The article indicates that "major papers circulate between 2,000 and 6,000 copies" and that many papers in Armenia have circulations in only the hundreds. The article further indicates that only five percent of the population regularly reads newspapers.

The petitioner submitted what appears to be a partial translation of an article titled [REDACTED] published in the [REDACTED]. The article includes a photograph depicting the beneficiary wearing a medal and appears to be an interview with his coach discussing the beneficiary's matches leading to his [REDACTED] competition. The coach is quoted as stating that the beneficiary and his brothers are "hope of Armenia in the future big championships."

The petitioner also submitted an article from the [REDACTED] newspaper, titled [REDACTED]. The article indicates that the beneficiary and his brothers began training in Judo in 1992, have been competing since 1994, and have received many first, second and third place finishes, including first prize at the [REDACTED]. The article goes on to discuss the role of the beneficiary's father as [REDACTED]. In addition, the article mentions that the beneficiary and one of his brothers, as members of the Armenian national youth combined team, will qualify for the French Tatami, and if successful, compete in the European Youth Olympic Days in Portugal in 1997.

A second article titled [REDACTED] was submitted from the [REDACTED] issue of [REDACTED]. The article includes an interview with [REDACTED] and mentions the beneficiary's participation in the upcoming "world youthful games" in [REDACTED]. The article mentions that the beneficiary's second place win at the [REDACTED] "is considered to be the best success within the ten years in the field of Judo." The article addresses the Armenian judo team's lack of international competition experience and their attempts to compensate through rigorous training in Armenia.

The petitioner also submitted an article titled [REDACTED] which appeared in the [REDACTED] edition of [REDACTED] newspaper. The article mentions the beneficiary's silver medal at

the [REDACTED] against 30 competitors in his weight category, as well as his teammate's [REDACTED] at this event. The article states "let this championship will be first step to [REDACTED] [REDACTED]"

The final newspaper article submitted was an article titled [REDACTED] which appeared in the [REDACTED] edition of [REDACTED]. The article reports the results of Armenian soldiers competing in the [REDACTED] and notes that the beneficiary won a [REDACTED] [REDACTED], losing his final match to a more experienced [REDACTED] medalist. The article also reports the results of two other Armenian soldiers who won gold and silver medals in their weight categories at this event.

The director determined that the above-referenced evidence of published materials about the beneficiary does not meet the criterion at 8 C.F.R. § 214.2(o)(3)(iii)(B)(3). The director found that although some of the published articles appeared in "major media," the articles as a whole failed to establish that the beneficiary has achieved the required sustained acclaim in the sport consistent with extraordinary ability.

As noted above, in conducting a *de novo* review of the record, we will apply the two-part analysis set forth in *Kazarian* in evaluating the petitioner's evidence under the evidentiary criterion. If the petitioner submits published material in professional or major trade publications or other major media about the alien, we will conclude that the evidence satisfies the plain language of this criterion. We will then analyze in the final merits determination whether the evidence is consistent with the statutory requirement of "extensive documentation" and the regulatory definition of "extraordinary ability" as "one of that small percentage who have risen to the very top of the field of endeavor."

Accordingly, we find that the petitioner meets this criterion based on the submitted articles from the newspapers [REDACTED] which despite their very low circulation figures, have been demonstrated to be "major" newspapers in Armenia. The petitioner has not provided circulation figures or any other basis to support a conclusion that the two other newspapers in which articles about the beneficiary were published are considered "major media" in Armenia. The AAO also finds that the appearance of the beneficiary's name and photograph in the [REDACTED] does not rise to the level of an article about the beneficiary. The magazine presumably reported the names and nationalities of all medal winners at the [REDACTED] competition. The article supports the petitioner's claim that the beneficiary's medal at this event is an internationally-recognized prize or award. While the AAO does not minimize the significance of the beneficiary's selection [REDACTED] for the youth national team at this event, we cannot overlook that he was not identified by name in a caption to the photograph, and the photograph was not about his selection for this honor, but merely a photograph of the event's opening ceremony.

Finally, the AAO notes that while the results of the beneficiary's matches have been reported on various Internet sites dedicate to Judo or sports in general, mere mentions of the beneficiary's name in print or tournament results cannot be considered articles about the beneficiary.

Evidence of the alien's participation on a panel, or individually as a judge of the work of others in the same or in an allied field of specialization to that for which classification is sought

At the time of filing, the petitioner stated that the beneficiary meets this criterion, at 8 C.F.R. § 214.2(o)(3)(iii)(B)(4), based on his positions as [REDACTED] for the [REDACTED] and as [REDACTED] for the [REDACTED].

In the RFE issued on March 5, 2009, the director advised that in an occupation such as coaching, where "judging" the work of others is an inherent duty of the occupation, simply performing one's job-related duties is not sufficient to meet this criterion. Specifically, the director noted that the petitioner must demonstrate that the beneficiary was chosen to judge the work of others on a national or international level based on his sustained national or international acclaim in the field. The director requested evidence that the beneficiary has judged the work of others in the sport outside of coaching for an event, competition or contest.

In response to the RFE, the petitioner did not specifically address this criterion. However, the petitioner did submit in support of the criterion at 8 C.F.R. § 214.2(o)(3)(iii)(B)(7), a letter from the president of the Armenian Judo Federation indicating that the beneficiary is a "republican referee license holder" since 2004, and that he passed an examination in order to receive this qualifications. The letter indicates that between 2004 and 2006, the beneficiary "participated in the Armenian championships of cadets and juniors and in 'Zeytun Cup' International tournaments as a referee."

The director determined that the petitioner did not submit evidence to meet this criterion. The director referred to the petitioner's initial claims that the beneficiary's coaching experience qualifies, and dismissed these claims for the reasons stated in the RFE. However, upon review of the evidence, the AAO finds that the beneficiary's experience as a referee satisfies the plain language of this regulatory criterion. The weight to be given to the beneficiary's referee qualifications will be considered below in our final merits determination.

Evidence that the alien has been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation

The petitioner did not indicate at the time of filing that it was submitting evidence to meet the criterion at 8 C.F.R. § 214.2(o)(3)(iii)(B)(7). In response to the RFE, counsel for the petitioner stated that "the Armenia National Judo Team and Armenian National Olympic Team are well established and highly respected groups in the world judo community due to their active participations in world championships as well as the Olympic Games." Counsel stated that the beneficiary's "high standing in the world Judo community significantly promotes the image and reputation of the Armenian teams and his country in the world." Counsel noted that the beneficiary [REDACTED] and that he played a critical role for his country by [REDACTED].

Counsel further stated that the beneficiary's role as member and [REDACTED] is in a critical or essential capacity, as he was the only player selected to assist the national head coach in evaluating and training fellow team members. Counsel noted that [REDACTED]. Finally, counsel emphasized that the beneficiary's national Judo referee license is "another testament to his critical roles in both teams and his high standing in the field of Judo in Armenia."

The director determined that the petitioner did not meet this criterion. The director acknowledged the distinguished reputation of the [REDACTED] but noted that "the beneficiary is a member of a larger team, with everyone's contributions equally as important as the next persons." The director found that evidence insufficient to establish that the beneficiary's employment with either team has been in a critical or essential capacity. The director further found that the beneficiary's role as an assistant coach must be considered to be in a supporting capacity.

On appeal, counsel maintains that the beneficiary meets this criterion based on his role as an [REDACTED] with the [REDACTED]. Counsel claims that the beneficiary was not [REDACTED] but rather, "enhanced the reputation of judo in Armenia." The petitioner submits a new letter from [REDACTED] who confirms that the beneficiary "was employed in critical or essential capacity as [REDACTED] and then the [REDACTED] further states:

[The beneficiary] is not an ordinary [REDACTED]. First of all, he is an internationally recognized professional judo athlete competing around the world and he has firsthand knowledge and experience in individual training and competitions. Secondly, he was trained and certified by the International Olympic Committee (IOC) for Olympic Solidarity technical course for coaches in Judo in 2007. IOC is the umbrella organization and supreme authority of the Olympic Games the world. Its membership consists of the 205 National Olympic Committees. Its certification is universally recognized. With IOC training and certification, [the beneficiary] is authorized to train others by Olympic standards and requirements. And, thirdly, he is a licensed Judo Referee in Armenia.

With all these experiences and qualifications, [the beneficiary] was able to contribute much more significantly to our team than an individual coach, an athlete, or a referee. He used his unique combination of experience and knowledge in almost every aspect of the sport to train himself and to train his team mates. He worked closely with the Head Coach to develop training plans and game strategies for other athletes and he participated in the training of others in testing and enforcing these plans and strategies. His role was absolutely critical in maintaining our team's competitive level for international events.

Upon review, the AAO concurs with the director's determination that the beneficiary's membership and [REDACTED] cannot be considered employment in a critical or essential capacity with these teams.

The AAO does not question that the [REDACTED] teams enjoy a distinguished reputation. Membership in and coaching experience with a [REDACTED] is evidence of a degree of recognition, as noted above. However, while the beneficiary has been able to provide coaching expertise to his fellow athletes in a manner that is not expected of the average athlete, there is no evidence that his role as an assistant coach or "player coach" was critical or essential for [REDACTED]. This subordinate role is designed to provide assistance to a head coach or other more senior coach. The petitioner's evidence does not demonstrate how the beneficiary's role differentiated him from other coaches. Given that the petitioner is claiming that the beneficiary meets this criterion based on his experience as a coach, it is reasonable to compare him to other coaches, rather than to other athletes, in this regard. The documentation submitted by the petitioner does not establish whether or how the beneficiary was responsible for the success or standing of the [REDACTED] to a degree consistent with the meaning of "essential or critical role."

In light of the foregoing, the petitioner has submitted evidence that satisfies the plain language of four of the evidentiary criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B).

B. Final Merits Determination

In accordance with the *Kazarian* opinion, we must next conduct a final merits determination that considers all of the evidence in the context of whether or not the petitioner has demonstrated: (1) that the beneficiary has achieved a level of expertise indicating that he is one of that small percentage who have risen to the very top of the field of endeavor pursuant to 8 C.F.R. § 214.2(o)(3)(ii); and (2) that the beneficiary has sustained national or international acclaim and that his achievements have been recognized in the field of expertise, pursuant to 8 C.F.R. § 214.2(o)(3)(iii) and section 101(a)(15)(O)(i) of the Act, 8 U.S.C. § 1101(a)(15)(O)(i). See *Kazarian*, 2010 WL 725317 at *3.

The petitioner has submitted documentation that reflects the beneficiary's receipt of a total of three nationally or internationally recognized awards as a Judo athlete. While such awards meet the plain language of the regulation at 8 C.F.R. § 214.2(o)(3)(iii)(B)(1), a review of the beneficiary's competition record as a whole does not establish that he has consistently won such awards in a pattern commensurate with sustained acclaim. The beneficiary won a [REDACTED] and [REDACTED]. While these awards are undoubtedly impressive achievements, the fact remains that the petitioner has provided evidence of only three qualifying awards received over an athletic career spanning 12 years, and only one award at the senior level of the sport. Although the [REDACTED] is a senior elite event which draws top international competitors, it is described in the submitted materials as a "Senior B-Level" tournament, and the weight to be given to this award is less than that to be given to an A or A+ level tournament such as a World Cup or World Championship event.

The AAO notes that the beneficiary's resume indicates that he achieved [REDACTED]. However, the record contains no primary evidence of the beneficiary's receipt of such awards, and the petitioner does not claim eligibility under the first criterion based on these awards. The petitioner has submitted evidence of the beneficiary's participation in national and international events such as the Junior European Championship, 18-22 (1998), the 2000 Junior Judo World Championships, the European Championship under 20, (2001), the 2003 World Judo Championships, the European Judo Union 2006 World Cup, among others, but the beneficiary did not receive awards at any of these events. The petitioner also indicates that, while the beneficiary is a member of the [REDACTED] he [REDACTED]

The beneficiary has undoubtedly competed with some success at the national and international levels. However, the beneficiary's achievements must be compared to all Judo athletes competing in the sport. In weighing the merits of the beneficiary's national and international championships, the AAO must take into account that some of the beneficiary's competitive success has been at pre-senior levels of the sport. The AAO would expect an athlete at the very top of his sport to be competing successfully in high-profile events at the highest competitive level of the sport over a period of time. The regulations require the petitioner to demonstrate "sustained" acclaim. 8 C.F.R. § 214.2(o)(3)(iii). The beneficiary's receipt of a [REDACTED], considered with one [REDACTED] of international competition, is insufficient to establish the beneficiary's placement in the top echelon of athletes in the sport.

With respect to the criterion at 8 C.F.R. § 214.2(o)(3)(iii)(B)(3), the AAO notes that, while the petitioner submitted two articles from publications that could be considered "major" newspapers in Armenia, the articles were published in 1997 and 2008 and also fail to establish a pattern of *sustained* national or international acclaim consistent with an athlete who is at the very top of the field and the requirement that the petitioner establish the beneficiary's eligibility through submission of "extensive evidence." It is reasonable to expect that an athlete at the very top of an Olympic sport such as Judo would garner more consistent and widespread attention in the sports media. The beneficiary has not been featured in any other qualifying publications, and, while the petitioner submitted results of an Internet search for the beneficiary, the results included only competition results rather than any specific articles about the beneficiary and his achievements in the sport.

With respect to the criterion at 8 C.F.R. § 214.2(o)(3)(iii)(B)(7), the AAO acknowledges that the beneficiary, as a licensed Judo referee in Armenia, has refereed at "the Armenian championships and juniors" and in the "Zeytun Cup" international tournament. The AAO notes that the beneficiary became a referee by "participating in the refereeing examination" and not by virtue of his achievements or reputation in the sport. The petitioner has not provided the Armenian Judo Federation's criteria for licensing referees and has not established that participation in the refereeing examination is limited to only those who are at the top of the sport as athletic competitors. Further, the beneficiary's refereeing of junior and cadet-level Judo athletes, even at the national level, is insufficient to establish the requisite sustained national or international acclaim.

III. Conclusion

The conclusion we reach by considering each evidentiary criterion separately is consistent with a review of the evidence in the aggregate. Even in the aggregate, the evidence does not distinguish the beneficiary as one of the small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. § 214.2(o)(3)(ii). The petitioner relies mainly on the beneficiary's three national and international competition awards and his membership on [REDACTED] to establish his eligibility. However, given the length of the beneficiary's career as a competitive athlete, his success in nationally and internationally-recognized events has been relatively limited, with only three major awards won between 1997 and 2008.

The petitioner submitted for the record a biography for the beneficiary's recent opponent, [REDACTED] who defeated the beneficiary to win the gold medal in the [REDACTED] career highlights include more than 40 gold, silver and bronze awards in national and international competitions earned since 1999. While the beneficiary clearly possesses the athletic talent to compete against an accomplished athlete such as [REDACTED] as indicated by his receipt of the silver medal in this event, it appears that the highest level of achievement in the beneficiary's field is substantially above the level he has currently attained.

The extraordinary ability provisions of this visa classification are intended to be highly restrictive. *See* 137 Cong. Rec. S18247 (daily ed., Nov. 16, 1991). In order to establish eligibility for O-1 classification, the petitioner must establish that the beneficiary is "at the very top" of his field of endeavor. 8 C.F.R. § 214.2(o)(3)(ii). The beneficiary's achievements have not yet risen to this level. Review of the record does not establish that the beneficiary has distinguished himself to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of his field. Therefore, the petitioner has not established eligibility pursuant to section 101(a)(15)(O)(i) of the Act and the petition may not be approved.

This denial does not preclude the petitioner from filing a new immigrant or nonimmigrant visa petition, supported by the required evidence. As always, the burden remains with the petitioner to establish eligibility for the requested visa classification.

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.

ORDER: The appeal is dismissed.