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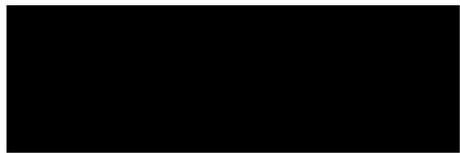
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Administrative Appeals Office (AAO)
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Washington, DC 20529-2090



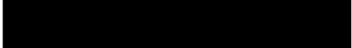
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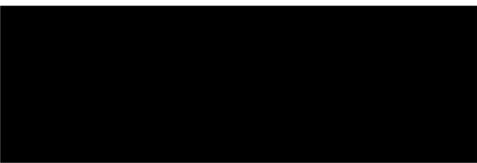
D9



DATE: **JUL 28 2011** Office: CALIFORNIA SERVICE CENTER FILE: 

IN RE: Petitioner: 
Beneficiary: 

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(P)(i) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(P)(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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

A handwritten signature in black ink, appearing to read "Perry Rhew".

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner filed the nonimmigrant petition seeking to classify the beneficiary as an internationally-recognized athlete under section 101(a)(15)(P)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(P)(i). The petitioner, a Shaolin Kung Fu institute, seeks to employ the beneficiary as a martial arts athlete for a period of one year. The beneficiary was previously granted P-1 status for employment with the petitioner and the petitioner requests that he be granted an extension of status.

The director denied the petition, concluding that the petitioner failed to establish: (1) that the beneficiary as an individual athlete has achieved international recognition in his sport based on his own reputation; and (2) that the beneficiary is coming to the United States solely to participate in an event or events requiring the participation of an internationally recognized athlete.

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 all requirements for P-1 classification have been met. The petitioner submits new evidence and copies of previously submitted evidence in support of the appeal.

I. The Law

Under section 101(a)(15)(P)(i) of the Act, an alien having a foreign residence which he or she has no intention of abandoning may be authorized to come to the United States temporarily to perform services for an employer or sponsor. Section 214(c)(4)(A)(i) of the Act, 8 U.S.C. § 1184(c)(4)(A)(i), provides that section 101(a)(15)(P)(i)(a) of the Act applies to an alien who:

- (I) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance;
- (II) is a professional athlete, as defined in section 204(i)(2);
- (III) performs as an athlete, or as a coach, as part of a team or franchise that is located in the United States and a member of a foreign league or association of 15 or more amateur sports teams, if
 - (aa) the foreign league or association is the highest level of amateur performance of that sport in the relevant country;
 - (bb) participation in such league or association renders players ineligible, whether on a temporary or permanent basis, to earn a scholarship in, or participate in, that sport at a college or university in the United States under the rules of the National Collegiate Athletic Association; and

- (cc) a significant number of the individuals who play in such league or association are drafted by a major sports league or a minor league affiliate of such a sports league; or
- (IV) is a professional athlete or amateur athlete who performs individually or as part of a group in a theatrical ice skating production . . .[.]

Section 214(c)(4)(A)(ii)(I) of the Act, 8 U.S.C. § 1184(c)(4)(A)(ii)(I) provides that the alien must seek to enter the United States temporarily and solely for the purpose of performing as such an athlete with respect to a specific athletic competition.

The regulation at 8 C.F.R. § 214.2(p)(4)(i)(A) states:

P-1 classification as an athlete in an individual capacity. A P-1 classification may be granted to an alien who is an internationally recognized athlete based on his or her own reputation and achievements as an individual. The alien must be coming to the United States to perform services which require an internationally recognized athlete.

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

Internationally recognized means having a high level of achievement in a field evidenced by a degree of skill and recognition substantially above that ordinarily encountered, to the extent that such achievement is renowned, leading, or well-known in more than one country.

The regulation at 8 C.F.R. § 214.2(p)(4)(ii) sets forth the documentary requirements for P-1 athletes as:

- (A) *General.* A P-1 athlete must have an internationally recognized reputation as an international athlete or he or she must be a member of a foreign team that is internationally recognized. The athlete or team must be coming to the United States to participate in an athletic competition which has a distinguished reputation and which requires participation of an athlete or athletic team that has an international reputation.
- (B) *Evidentiary requirements for an internationally recognized athlete or athletic team.* A petition for an athletic team must be accompanied by evidence that the team as a unit has achieved international recognition in the sport. Each member of the team is accorded P-1 classification based on the international reputation of the team. A petition for an athlete who will compete individually or as a member of a U.S. team must be accompanied by evidence that the athlete has achieved international recognition in the sport based on his or her reputation. A petition for a P-1 athlete or athletic team shall include:
 - (1) A tendered contract with a major United States sports league or team, or a tendered contract in an individual sport commensurate with international recognition in that

sport, if such contracts are normally executed in the sport, and

- (2) Documentation of at least two of the following:
 - (i) Evidence of having participated to a significant extent in a prior season with a major United States sports league;
 - (ii) Evidence of having participated in international competition with a national team;
 - (iii) Evidence of having participated to a significant extent in a prior season for a U.S. college or university in intercollegiate competition;
 - (iv) A written statement from an official of the governing body of the sport which details how the alien or team is internationally recognized;
 - (v) A written statement from a member of the sports media or a recognized expert in the sport which details how the alien or team is internationally recognized;
 - (vi) Evidence that the individual or team is ranked if the sport has international rankings; or
 - (vii) Evidence that the alien or team has received a significant honor or award in the sport.

Finally, the regulation at 8 C.F.R. § 214.2(p)(2)(ii) states that all petitions for P classification shall be accompanied by:

- (A) The evidence specified in the specific section of this part for the classification;
- (B) Copies of any written contracts between the petitioner and the alien beneficiary, or, if there is no written contract, a summary of the terms of the oral agreement under which the alien(s) will be employed;
- (C) An explanation of the nature of the events or activities, the beginning and ending dates for the events or activities, and a copy of any itinerary for the events or activities; and
- (D) A written consultation from a labor organization

II. The Issues on Appeal

A. Internationally-Recognized Athlete

The first issue addressed by the director is whether the petitioner established that the beneficiary is an internationally recognized athlete as defined in the Act and regulations. The petitioner can establish that the beneficiary is internationally recognized by submitting evidence satisfying two out of the seven of the documentary requirements listed at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2). The petitioner's evidence must support a finding that the beneficiary's individual achievement in the sport is renowned, leading or well-known in more than one country, pursuant to the definition of "internationally recognized" at 8 C.F.R. § 214.2(p)(3).

The petitioner does not claim that the beneficiary meets the criteria at 8 C.F.R. §§ 214.2(p)(4)(ii)(B)(2)(i), (iii), or (iv), nor does it contest the director's determination that these criteria have not been met. The remaining four criteria will be discussed below.

To satisfy the second criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(ii), the petitioner must submit evidence of having participated in international competition with a national team. At the time of filing, the petitioner stated that the beneficiary "has been competing in CPAA International Shaolin Kung Fu Tournament in the past years." The petitioner submitted the following award certificates issued to the beneficiary:

- Certificate of Champion, Broadsword – Professional Division, [REDACTED]
- Certificate of Champion, Qi Gong – Professional Division, [REDACTED]
- Certificate of Champion, Staff – Monkey Style – Professional Division, [REDACTED] and [REDACTED]
- Certificate of Champion, Traditional Fist Form – Professional Division, [REDACTED]

In a request for evidence ("RFE") issued on November 30, 2010, the director noted that, based on the evidence presented, the beneficiary participated in these events as an individual and not as a member of a recognized national team. In response to the RFE, counsel asserted that "Chinese martial arts are still a developing sports form," and that "there is no existence of official national Chinese martial arts teams on behalf of their countries."

The director therefore concluded that, as counsel conceded that the beneficiary has not competed in international competition as a member of a national team, the petitioner did not submit evidence to satisfy the plain language of this criterion. The petitioner does not contest this finding on appeal or otherwise claim that the beneficiary meets this criterion. We agree with the director's conclusion that the beneficiary's individual competition in international competitions does not satisfy the plain language of this regulatory criterion.

To meet the criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(v), the petitioner must submit a written statement from a member of the sports media or a recognized expert in the sport which details how the alien or team is internationally recognized. The petitioner submitted a letter dated November 4, 2010 from [REDACTED]

██████████ states that in addition to this position, he is the vice president of ██████████ and the vice president of ██████████. With respect to the beneficiary, ██████████ states:

I have conducted a careful survey of [the beneficiary's] many awards and accolades that he has received. Based on my review of his achievements, I believe that [the beneficiary] is an internationally recognized athlete in the area of martial arts, and possess [sic] exceptional abilities that have placed him at the top of his sport. I also reviewed the competition itinerary scheduled by [the petitioner]. All of the scheduled competitions are influential martial arts competitions in the North America, and they require the participants have distinguished reputation in the field. [The beneficiary] is a highly renowned Shaolin Kung Fu athlete and he will be invaluable to those nationally or internationally recognized martial arts competitions in the United States.

[The beneficiary] is an international level Kung Fu master because of his previous achievements in international competitions. Since he came to the United States, [the beneficiary] has been participating in CPAA International Shaolin Kung Fu Tournament. ██████████. Besides, [the beneficiary] has been invited as judge for several influential martial arts competitions in North America, including the well-known Annual Chinese Martial Arts Tournament hosted by UC Berkeley, and the annual Tiger Claw's KungFuMagazine.com Championship hosted by the famous Tiger Claw Kung Fu magazine in U.S. [The beneficiary] was a China national champion before he came to the United States. He has already become a winner since 1997 ██████████. He won this champion title continuously in 1998, 1999 and 2001. In addition, [the beneficiary] is a Chinese Wushu Duan 5 certificate holder which signifies the recognition of his achievement by ██████████ the most authoritative organization governing Wushu sports in China.

██████████ concludes by stating that he believes that the beneficiary "is a martial arts athlete of international recognition."

The AAO notes that the petitioner initially submitted ██████████ advisory opinion letter to meet the consultation requirement set forth at 8 C.F.R. § 214.2(p)(2)(ii)(D), and did not claim eligibility under 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(v). In a request for evidence issued on November 30, 2010, the director acknowledged receipt of ██████████ letter in lieu of a consultation from a labor organization, but advised the petitioner that there is no provision in the P-1 regulations that allows for the substitution of an individual or group "peer review" advisory opinion. The director found that the initial evidence did not include a written statement from a member of the sports media or a recognized expert in the sport which details how the beneficiary is internationally recognized, and allowed the petitioner 30 days to submit this and other required initial evidence of eligibility.

In a response dated December 20, 2010, counsel for the petitioner noted that [REDACTED] letter is sufficient to satisfy the criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(v), as he is a "well-recognized expert" in the beneficiary's sport and he "evaluated that the beneficiary is a martial arts athlete of international recognition." The petitioner did not submit any additional evidence to satisfy this criterion.

In denying the petition, the director reviewed [REDACTED] letter pursuant to the requirements at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(v). The director determined that [REDACTED] did not adequately detail how the beneficiary is internationally recognized, and emphasized that "simply stating that the alien is internationally recognized is not enough." The director further noted that the evidence of record does not support Mr. Chen's statement that the beneficiary is "at the top of his sport."

Finally, the director observed that another individual, [REDACTED] has submitted virtually identical advisory opinion letters on behalf of other beneficiaries of P-1 petitions filed by unrelated petitioners.

On appeal, counsel asserts that [REDACTED] detailed how the beneficiary is internationally known by describing his accomplishments at certain prestigious competitions that feature both national and international competitors." Counsel asserts that [REDACTED] as an expert in the field, would undoubtedly know how impressive these accomplishments are and how the international Wushu community would perceive them." The petitioner re-submits a copy of [REDACTED] letter in support of the appeal.

Upon review, the AAO agrees with the director's determination that [REDACTED] letter does not satisfy the evidentiary criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(v).

While [REDACTED] asserts that the beneficiary is internationally recognized based upon his receipt of first place finishes in international competition and based on his 5th Duan level in Wushu, he fails to explain the significance of these achievements or how they convey international recognition in the sport. As discussed further below, the evidence of record does not support a finding that the beneficiary received any recognition for his achievements beyond the scope of the awarding organizations, such that his individual achievements are recognized as leading, renowned or well-known in more than one country. Based on [REDACTED] statement, any athlete with a 5th level Duan who had placed first in an international-level competition would be considered an "internationally-recognized" athlete in Wushu. The record does not in fact support a finding that such an athlete necessarily enjoys a degree of recognition "substantially above that ordinarily encountered" among Chinese Wushu athletes.

To meet the sixth criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(vi), the petitioner must submit evidence that the individual or team is ranked if the sport has international rankings.

At the time of filing the petition, the petitioner asserted that the beneficiary "has achieved outstanding ratings in the martial arts field." Counsel described the beneficiary's qualifications as follows:

[The beneficiary] is recognized by Chinese Wushu Association as Duan 5 martial arts master. The Chinese Wushu Duan Wei (Dan) System is a system which evaluates overall the Wushu

practitioners' technical levels stipulated and implemented by the Chinese Wushu Association. The Chinese Wushu Association is the Chinese national governing body for the sport of Wushu. In order to attain this rank, [the beneficiary] had to participate in two tests of his expertise and then gain a score of 8.9 (out of 10.0) or above to reach this rank.

The petitioner submitted a copy of the beneficiary's "Wushu Dan Certificate" issued by the Chinese Wushu Association, which indicates that the beneficiary passed the Wushu Dan Examination and has achieved the 6th Dan level. The petitioner also submitted information explaining the Chinese Wushu Association's Duan or Dan levels. The petitioner submitted information indicating that the intermediate level of Wushu experience, which includes the beneficiary's level 5, is comprised of "middle-level duans for Wushu students who are able to teach and have approximately 10 years wushu experience." There are one intermediate level and three advanced levels above level 5. As evidence of the significance of the "Wushu Athletes Ranking System," the petitioner submitted a translated article from the Chinese website <http://baike.baidu.com>, or "Baidu Wikipedia."

The director acknowledged the petitioner's claim that the beneficiary holds the rank of Duan 5, but found that "the evidence is inadequate to show that this ranking is part of a system that positions athletes according to their international standing in the field." Rather, the director found that the rank "appears to denote a person's level of competency and progress within a particular system." The director requested that the petitioner provide "independent objective documentary evidence that Duan 5 is akin to international rankings, and denotes the beneficiary's standing in the overall field as compared to others.

In response, counsel stated:

The beneficiary is holding [*sic*] Duan 5 certificate of Chinese martial arts. Please be noticed that in the Chinese martial arts field, international rankings are Chinese rankings. According to the development history of Chinese martial arts, the regulation and ranking system were created by relevant government in China and nowadays are administered by Chinese Wushu Association. To further popularize and promote Chinese martial arts worldwide, the Chinese Wushu Association has been holding Training Course of Chinese Wushu Duan System for Overseas Practitioners.

The petitioner submitted information from the website of the International Wushu Federation regarding the Chinese Wushu Duan System. Counsel stated that "the beneficiary's Duan 5 is an international level ranking."

The director determined that the beneficiary's 5th Duan level "appears to denote a person's level of competency and progress within a particular system." The director found the evidence submitted in response to the RFE insufficient to establish that the beneficiary's rank is equivalent to international rankings that denote the beneficiary's standing in her field as compared to others.

On appeal, counsel argues that "while Wushu does not have rankings that are especially similar to international rankings of other sports, it does in fact rank its athletes based on an internationally known scale."

Counsel relies, in part on [REDACTED]'s statement that beneficiary's Chinese Wushu Duan 5 certificate "signifies the recognition of his achievement by Chinese Wushu Association." Counsel claims that the beneficiary's rank "puts him in exclusive territory as a highly ranked international athlete."

Finally, counsel asserts:

Furthermore, the USCIS regulations do not state that the International rankings necessarily need to denote whether the Beneficiary is ranked first, tenth or fiftieth in her respective sport. The regulation only seeks to know whether the individual is ranked if the sport has an international ranking system. Wushu indeed does have an international ranking system that places all practitioners on a level scale in order to determine the proficiency of each international competitor. Merely because the Wushu international ranking system doesn't indicate which individual practitioner is the best in the world does not mean that these are not true international rankings.

Upon review, we concur with the director's determination that the evidence submitted fails to satisfy this criterion. The Duan ranking system is not the type of international ranking system contemplated by the regulations. Attaining a certain Duan level in the martial arts is the foreseeable outcome of a standard testing process by which Wushu practitioners advance from one level to the next. The petitioner has not established that achievement of the intermediate 5th Duan level garnered the beneficiary international recognition that establishes him as an athlete who is leading, renowned or well-known in the sport. The petitioner has not submitted evidence pertaining to the number of similarly ranked Wushu practitioners. Furthermore, while it appears that it may be possible for those outside of China to participate in the Duan Wei System, the record does not establish that the system has been implemented throughout the sport worldwide.

Finally, we note that counsel concedes that "the sport of Wushu doesn't technically rank its athletes," as other sports such as golf and tennis do. The regulation at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(vi) clearly acknowledges that not every sport uses an international ranking system for athletes and teams. There are sufficient evidentiary criteria to encompass the full range of individual and team sports, therefore USCIS is not required to consider purportedly comparable evidence, such as martial arts belt levels earned through experience and testing, in lieu of the evidence required by the plain language of the regulation.

The fourth and final criterion the petitioner seeks to meet is evidence that the beneficiary "has received a significant honor or award in the sport." 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(vii). In addition to the above referenced Duan Wei certificate and CCAA International Shaolin Kung Fu Tournament certificates, the petitioner has submitted the following evidence:

1. Award Certificate for First Place, Traditional Fist at [REDACTED]
2. Award Certificate for Second Place, Optional Fist at [REDACTED]
3. Award Certificate for First Place, Traditional Apparatus at [REDACTED]

4. Award Certificate for First Place, Other Fist, at the National Wushu Championships
5. Award Certificate for Second Place, Short Weapon (Sword) at
6. Award Certificate for Second Place,

The petitioner also submitted evidence of the beneficiary's experience as a judge in Wushu and Kung Fu events in the United States, including:

1. Certificate of Appreciation for participating as a judge at the 2nd Annual Tiger Claw's
2. Certificate of Appreciation for judging at the 18th Annual Chinese Martial Arts
3. A Certificate of Judging for participating in the 17th Annual Chinese Martial Arts
4. A Certificate of Appreciation for judging at the 15th Annual Chinese Martial Arts

The director determined that the certificates alone were insufficient to establish that any of these awards or honors is considered to be significant to the extent that their receipt would indicate that the beneficiary is an internationally recognized athlete. The director requested that the petitioner provide independent, objective documentary evidence to show that the beneficiary has received a significant honor or award in the sport.

In response, counsel specifically referenced the beneficiary's awards won at [redacted]. Counsel referred to the "attached letter from International Wushu Federation and Chinese Wushu Association showing these two national competitions are the highest level of national Wushu events in China." Counsel stated that "the participants of the National Games Wushu Competitions are all Wushu elite athletes who ranked within top 8 in national qualifying matches."

With respect to the beneficiary's experience as a judge, counsel indicated that the petitioner was submitting additional evidence to establish that [redacted] Championships and Annual Chinese Martial Arts Tournament are "international level competitions." Counsel indicates that the beneficiary was invited to serve as judge "because of his outstanding recognition in the field."

The director found that the awards the beneficiary has received appear to be regionally and possibly nationally recognized. However, the director determined that "the evidence is inadequate to show that they are recognized in the sport as significant to the extent that the recipient could derive an international reputation from having received them."

On appeal, counsel asserts that "earning multiple first place awards in International competitions against hundreds of other competitors clearly indicates that the beneficiary has won significant honors and awards in his sport." Counsel notes that, while some of the beneficiary's competitive success was restricted to athletes from China, the awards are nevertheless significant, as the beneficiary was "still competing against a vast number of highly skilled athletes." Counsel emphasizes that the regulations do not specifically state that the awards or honors need to be internationally based.

Counsel concludes by stating that "based on his first place awards at prestigious international and national competitions, [the beneficiary] has undoubtedly received significant honors in Wushu Kungfu."

Upon review, the AAO concurs with the director's finding that this criterion has not been met. While the beneficiary competed in events designated "national championships" in China, the petitioner has not established how the beneficiary's first and second-place awards conveyed to him international recognition in the sport. The AAO notes that the beneficiary was as young as 14 years old when he competed in some of the events mentioned in the record. The petitioner has not established that the competitions are of such stature that every athlete of any age who won first place in any event could be considered internationally recognized. The beneficiary appears to have been 18 years old at the 9th National Games competition in April 2001; however, there is no evidence of contemporaneous publicity surrounding these or any other awards. Nonetheless, the plain meaning of the term "internationally recognized," requiring "a high level of achievement," indicates that participation in competitive sports at the youth level will usually be insufficient, by itself, to establish the international recognition of an adult or professional competitor.

With respect to the beneficiary's four "certificates of champion" earned at the CPAA International Shaolin Kung Fu Tournament between 2006 and 2008, we note that the evidence of record does not establish that the competition has an internationally-recognized reputation in the sport such that its champions receive recognition in more than one country as a result of their performance.

Based on the foregoing, the AAO concurs with the director's conclusion that the petitioner failed to satisfy at least two of the seven criteria for internationally-recognized athletes as set forth at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2).

B. The Beneficiary's Intended Activities in the United States

The remaining issue addressed by the director is whether the beneficiary is coming to the United States to participate in an athletic competition which has a distinguished reputation and which requires participation of an athlete that has an international reputation. Pursuant to 8 C.F.R. § 214.2(p)(4)(i)(A), an individual P-1 athlete must be coming to the United States to perform services which require an internationally recognized athlete. The beneficiary must be coming solely for the purpose of performing as such an athlete. *See* section 214(c)(4)(A)(ii)(I) of the Act ; 8 C.F.R. 214.2(p)(1)(ii)(A)(1). The director determined that the record does not establish that the beneficiary would be solely competing in athletic competitions, but rather, would also be acting as a judge at athletic competitions. The director observed that the petitioner had not provided sufficient explanation as to what the beneficiary would be doing between martial arts competitions.

The petitioner stated in its letter dated October 27, 2010 that it wishes to hire the beneficiary as a martial arts athlete "to compete in the United States in various Chinese martial arts tournaments in the United States" between November 2010 and November 2011. The petitioner is described as "an institution for the learning of Shaolin Kung Fu culture and Chan Buddhism," with eleven employees. The petitioner states that "it is the only Shaolin Kung Fu institution in the United States where all instructors are Buddhist monks from China Songshan Shaolin Temple." The petitioner indicated that it offers classes in Shaolin Kung Fu, Shaolin Qigong and Shaolin Wellness which are taught by Shaolin Kung Fu monks.

The petitioner indicated that it has a verbal agreement with the beneficiary to pay him \$4,000 annually along with a travel and living allowance, and indicated that he "will be required to represent the petitioner to compete in a series of martial arts competitions."

The petitioner submitted a "competition timetable" for the beneficiary listing a total of ten tournaments to be held in California and Texas between January and September 2011. At two of the events, [REDACTED] and the 19th Annual Chinese Martial Arts Tournament, the beneficiary would serve as [REDACTED]. The petitioner indicated that the beneficiary would compete in all other events. The petitioner also submitted a Shaolin Kung Fu Class Schedule which indicates that the petitioner offers classes for children and adults six days per week.

In the request for evidence issued on November 30, 2010, the director acknowledged receipt of the competition timetable, but noted that the schedule included only 10 events scheduled over a total of approximately 13 days. The director requested an explanation of the nature of the events or activities in which the beneficiary will be engaged for the remaining time requested. The director also requested evidence that the athletic events require the participation of an internationally-recognized athlete.

In a response dated December 20, 2010, counsel stated that "nearly in each month, the beneficiary will compete in up to three such competitions as an outstanding Chinese martial arts artist on behalf of the petitioner." Counsel stated that "because of the fierce nature of these competitions, the beneficiary must be fully prepared during the intervals of every two events, and thus should be granted additional time for the preparation in the United States." Counsel noted that the events in which the beneficiary will compete are considered "the best and first class rated Chinese martial arts competitions in the United States," with each competition attracting many internationally-renowned Chinese competitors. The petitioner provided additional documentation relating to the events.

The director denied the petition concluding that the beneficiary was not seeking an extension of P-1 status "solely to compete" in athletic competitions. The director noted that the petitioner did not adequately explain what the beneficiary will be doing when he is not competing in the ten athletic competitions listed on the itinerary. The director further emphasized that the submitted itinerary indicates that the beneficiary will serve as a judge, rather than as a competitor, in at least two martial arts competitions. The director concluded that the record failed to establish that the beneficiary would be solely engaged as an athlete in athletic competition during the requested period of employment.

On appeal, counsel asserts that the beneficiary is seeking an extension of his P-1 status "solely to compete and take part in martial arts competitions," and "would focus all of his efforts on training for Wushu competitions and competing and participating in the Wushu competitions outlined in the previous petition letters."

The AAO will withdraw the director's decision as it relates to this issue alone. Upon review of the record, the petitioner has stated nowhere in the record that the beneficiary would perform any duties on behalf of the petitioner other than compete in athletic competitions as a representative of the petitioner. There are two confirmed events in which the beneficiary's services as a judge have been requested. If the petition were otherwise approvable, these events would be excluded. The petitioner clearly does not intend to employ the beneficiary as a judge, and there are inadequate grounds to conclude that the beneficiary would perform any other duties under the extended petition.

III. Prior Approvals and Conclusion

The AAO acknowledges that a total of four prior P-1 petitions filed on behalf of the beneficiary were approved by USCIS, including three prior petitions filed by the instant petitioner. The mere fact that USCIS, by mistake or oversight, approved a visa petition on one or more previous occasions does not create an automatic entitlement to the approval of a subsequent petition for renewal of that visa. *Royal Siam Corp. v. Chertoff*, 484 F.3d 139, 148 (1st Cir 2007); *see also Matter of Church Scientology Int'l.*, 19 I&N Dec. 593, 597 (Comm. 1988). For example, if USCIS determines that there was material error, changed circumstances, or new material information that adversely impacts eligibility, USCIS may question the prior approval and decline to give the decision any deference. A prior approval does not preclude USCIS from denying an extension of the original visa petition based on a reassessment of the beneficiary's qualifications. *Texas A&M Univ. v. Upchurch*, 99 Fed. Appx. 556, 2004 WL 1240482 (5th Cir. 2004).

Regardless, it is worth emphasizing that each petition filing is a separate proceeding with a separate record. *See* 8 C.F.R. § 103.8(d). In making a determination of statutory eligibility, USCIS is limited to the information contained in the record of proceeding. *See* 8 C.F.R. § 103.2(b)(16)(ii). USCIS does not consolidate previously filed petitions and does not have access to them at the time of adjudication. *See Hakimuddin v. DHS*, Slip Opinion, 2009 WL 497141 (S.D. Tex. Feb. 26, 2009).

The AAO is not required to approve applications or petitions where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. *See, e.g. Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm. 1988). Despite any number of previously approved petitions, USCIS does not have any authority to confer an immigration benefit when the petitioner fails to meet its burden of proof. *See* section 291 of the Act. Here, for the reasons discussed above, the petitioner has not established that the beneficiary is internationally-recognized as an athlete based on his individual reputation.

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. Here, that burden has not been met.

ORDER: The appeal is dismissed.