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



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**



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DATE: **MAY 12 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,

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 Chinese Kung Fu school, seeks to employ the beneficiary as a martial arts athlete for a period of one year, and requests that she be granted a change of status from P-3 to P-1.

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 her sport based on her 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 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) and (iii). The remaining 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 indicated that the beneficiary has participated in international competition at The First World Traditional Wushu Festival held in China in 2004, in the Second World Traditional Wushu Championships held in 2006, and at the 2009 University of California at Berkeley Chinese Martial Arts Tournament (CMAT).

In a request for evidence ("RFE") issued on November 18, 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. However, we note that the evidence submitted on appeal contains a letter from [REDACTED], who indicates that China does in fact have a national level team that competes in international competition. He indicates that the beneficiary "was once chosen by the 'Pre-Olympic' National Youth Wushu Team to receive training." It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). The record remains devoid of any independent, objective evidence of the beneficiary's membership on a national Wushu team in China.

To meet the criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(iv), the petitioner must provide a written statement from the governing body of the sport which details how the alien or team is internationally recognized. The petitioner did not submit evidence to satisfy this criterion prior to the adjudication of the petition. The only written statement in the record before the director was a letter from [REDACTED] who does not represent a governing body of the sport of Wushu.

In the RFE, the director provided the petitioner with an opportunity to submit additional evidence in support of this criterion and the other six evidentiary criteria pertaining to internationally-recognized athletes. The petitioner did not reference this criterion in response to the RFE, but submits new evidence in support of the appeal that relates to this criterion. Where, as here, a petitioner has been put on notice of a deficiency in the evidence and has been given an opportunity to respond to that deficiency, the AAO will not accept evidence offered for the first time on appeal. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *see also Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988). If the petitioner had wanted the submitted evidence to be considered, it should have submitted the documents in response to the director's request for evidence. *Id.* Under the circumstances, the AAO need not and does not consider the sufficiency of the evidence submitted on appeal.

Regardless, the AAO notes for the record that the newly submitted letter would be insufficient to satisfy this criterion. The petitioner submits a written statement from [REDACTED] which is described as the official United States representative to the [REDACTED] and the official governing body in the United States. Although the petitioner submits this letter for consideration under 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(v), we note that a letter from the governing body of the beneficiary's sport would appropriately be considered under this criterion.

[REDACTED] indicates that he writes "to confirm [the beneficiary's] achievement in the Chinese Wushu field as an internationally recognized Wushu athlete." He indicates that the beneficiary's gold medal performances at international level competitions such as the first and second World Traditional Wushu Festivals co-hosted by the Chinese Wushu Association and International Wushu Federation, as well as her results at the 2009 University of California at Berkeley Chinese Martial Arts Tournament "have shown that she is a recognized international level Wushu athlete in the field." [REDACTED] further states:

In 2004, she won two first place titles in the First World Traditional Wushu Festival. In 2006, she won another two first place titles in the Second World Traditional Wushu Championships. The World Traditional Wushu Festival (Championships) is the largest Wushu competition in China, co-hosted by the Chinese Wushu Association and International Wushu Federation, and is also a very important international Wushu event. Each time, more than two thousand Wushu athletes from over 50 countries and regions attend this event. In 2009, [REDACTED] won three first place titles at the 2009 UC Berkeley Chinese Martial Arts Tournament, which is one of the largest international level Wushu tournaments in the United States. This event draws about 550 competitors each year from all over the world. [REDACTED] competition results as a gold medal winner in these international level Wushu competitions have shown that she is a recognized international level Wushu athlete in the field. Watching her performance is both an enjoyment and an inspiration. Her expertise is unsurpassed among her contemporaries.

Finally, [REDACTED] discusses the significance of the beneficiary's Duan 6 certificate and national competitions. He concludes that "USAWKF has reviewed [the beneficiary's] awards and Duan certificate," and that "[t]he above achievements establish that [the beneficiary] is both a nationally and internationally recognized Wushu athlete."

Upon review, while [REDACTED] asserts that the beneficiary is internationally recognized based upon her receipt of first place finishes in international competition and based on her 6<sup>th</sup> 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 her achievements beyond the scope of the awarding organizations, such that her individual achievements are recognized as leading, renowned or well-known in more than one country. Based on [REDACTED] statement, any athlete with a 6<sup>th</sup> 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 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 the above-referenced "expert opinion" from Tao He, President of U.S.A. Wu Chi Kung Fu Academy. [REDACTED] states:

I have conducted a careful survey of [the beneficiary's] many awards and accolades that she has received. Based on my review of her 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 her at the top of her 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 China National Wushu Champion and winner of Sportsman title. She will be invaluable to those nationally or internationally recognized martial arts competitions in the United States.

[The beneficiary] is the winner of many international level martial arts competitions, including the The First Traditional Wushu Festival, The Second World Traditional Wushu Championships, and UC Berkeley Chinese Martial Arts Tournament. [The beneficiary] is Chinese Duan 6 certificate and Black Belt certificate holder. She was ranked as Level 1 Athlete and granted Sportsman title by General Administration of Sport of China. In addition, [the beneficiary] has excellent achievements in China national level competitions, including 3<sup>rd</sup> Huanghe Golden Triangle Tai Chi [Q]uan Invitational, 2005 "Xin Shuo Cup" National Wushu Taolu Championships and 2004 National Youth Wushu Taolu Championships.

[REDACTED] concludes by stating that he believes that the beneficiary "is a martial arts athlete of national and international recognition."

The AAO notes that the petitioner initially submitted [REDACTED] 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 18, 2010, the director acknowledged receipt of [REDACTED] 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 2, 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 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 [REDACTED] statement that the beneficiary is "at the top of her sport."

Finally, the director emphasized that [REDACTED] had provided a nearly identical advisory opinion letter on behalf of a beneficiary of a P-1 petition filed by an unrelated petitioner.

On appeal, the petitioner submits two additional letters in support of this criterion. Counsel does not contest or comment upon the director's findings with respect to the deficiencies of [REDACTED] letter, and no longer claims eligibility under this criterion based on that letter.

As noted above, the director provided the petitioner with an opportunity to submit additional evidence in support of this criterion and the other six evidentiary criteria pertaining to internationally-recognized athletes prior to the adjudication of the petition. Where, as here, a petitioner has been put on notice of a deficiency in the evidence and has been given an opportunity to respond to that deficiency, the AAO will not accept evidence offered for the first time on appeal. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *see also Matter of Obaigbena*, 19 I&N Dec. 533 (BIA 1988). If the petitioner had wanted the submitted evidence to be considered, it should have submitted it in response to the director's request for evidence. *Id.* Regardless, the AAO notes for the record that the newly submitted letter is insufficient to satisfy this criterion.

The petitioner provides a letter from [REDACTED] who states that he has known the beneficiary since 2008. [REDACTED] indicates that the beneficiary is a "Wuying level Wushu performer" a status normally only granted to the top three performers in national and international competitions. He indicates that, given China's dominance in the sport of Wushu, "a Wuying level performer should be considered as a top performer in the world." He also states that he has observed the beneficiary's Wushu performances and finds her to be equally talented compared to five-time National Wushu Champion [REDACTED]. Finally, [REDACTED] indicates that the fact that the beneficiary has been invited to referee

Wushu competitions in the United States is significant because "it is the tradition in Wushu that only recognized high level Wushu performers have the authority to serve as referees."

While [REDACTED] praises the beneficiary's talents as a Wushu athlete and indicates that she performs at a high level, he fails to detail with any specificity how the beneficiary is internationally recognized for her achievements in the sport. The record contains no supporting documentation confirming the beneficiary's claimed "Wuying" qualifications, or the significance of this designation. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r. 1972)).

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, counsel 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 6 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 [*sic*] expertise and then gain a score of 9.2 (out of 10.0) or above to reach this rank. . . .

[The beneficiary] also passed the requested test and received her Black Belt certificate in Kung Fu on October 20, 2008 before she became a coach of the Academy. The black belt certificate signifies [the beneficiary] has reached an advanced level of skill.

In addition, [the beneficiary] was recognized by General Administration of Sport of China, the national sports authority, as national Sportsman. To meet this qualification, the applicant has to win a certain ranking in national level Wushu competitions. [The beneficiary] was granted this title because she won the second place in 2005 Xin Shuo Cup National Wushu Taolu Championships.

Moreover, [the beneficiary] is a Level 1 Athlete according to China Athlete Skill Level Standard and was appraised based on her achievement of 1<sup>st</sup> Place at 2004 National Youth Championships.

The petitioner submitted a copy of the beneficiary's Wushu Duan Wei Certificate issued by the Chinese Wushu Association, which indicates that the beneficiary passed the Wushu Duan Wei Examination and has achieved the 6<sup>th</sup> Duan Wei level. The petitioner also submitted information from the website of the Chinese Wushu Association (<http://www.Wushu.com.cn>) explaining the Chinese Wushu Duan System, which has a

total of nine levels. The petitioner submitted information indicating that the intermediate level of Wushu experience, which includes the beneficiary's level 6, is comprised of "middle-level duans for Wushu students who are able to teach and have approximately 10 years Wushu experience." There are three advanced levels above level 6. According to the information provided, the 2009 Chinese Wushu Duan System Examination was held in Zhengzhou and Dengfeng City, Henan Province, China from August 15 to 19, 2009. The beneficiary's Duan credential is dated August 18, 2009. The record shows that the beneficiary was last admitted to the United States on October 15, 2008 and has remained here since that time. It is unclear when or where she completed the examination.

The petitioner also provided a copy of a "Sportsman Certificate" issued to the beneficiary by the General Administration of Sport of China, indicating that "according to Athlete Skill Level Standard, after the examination, the applicant meets the qualification and is granted the Sportsman title." The certificate indicates that the beneficiary received the title for second place, Female Di Tang Quan, at the 2005 Xin Shuo Cup National Wushu Taolu Championships on September 30, 2005, when she was 14 years old. The petitioner submitted a similar certificate indicating that the beneficiary was granted the "Level 1 Athlete Title" for "Wushu Taolu" based on finishing in First Place in the 2004 National Youth Championship. 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 above-referenced documents, but noted that the beneficiary's 6<sup>th</sup> level Duan rank, Level 1 Athlete and Sportsman titles "appear to denote a person's level of competency and progress within a particular system." The director instructed the petitioner to submit independent, objective, documentary evidence establishing that the Duan level and the titles bestowed by the General Administration of Sport of China "are akin to international rankings, and denote the beneficiary's standing in the overall field as compared to others."

In response, counsel stated:

The beneficiary is holding [*sic*] Duan 6 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 6 is an international level ranking."

The director determined that the beneficiary's 6<sup>th</sup> Duan level and recognitions from the General Administration of Sport of China "appear 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 certifications are 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] statement that the beneficiary is a "Wuying level Wushu performer," and emphasizes that "a Wuying level athlete is only accorded to the top three performers in national and international competitions." Counsel claims that the beneficiary is thus "essentially ranked as one of the top three Wushu practitioners in the world."

Counsel further emphasizes that "while the sport of Wushu doesn't technically rank its athletes in terms of a numerical ranking, such as the World Gold Rankings, it does give an international ranking based on their skill and proficiency." Counsel claims that the beneficiary's "rank as a 6<sup>th</sup> level Duan practitioner puts her 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. Such promotions are inherent to the martial arts and they represent standardized progression to the next skill level. According to the notes included on the Duan certificate "the Chinese Wushu Duan Wei System is a system which evaluates overall the Wushu practitioners technical levels stipulated and implemented by the Chinese Wushu Association." The petitioner has not established that achievement of the intermediate 6<sup>th</sup> Duan level garnered the beneficiary international recognition that establishes her 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.

Furthermore, as discussed above, it appears that the petitioner is representing that the beneficiary was promoted to the 6<sup>th</sup> Duan level at the 2009 "Second Session of the Chinese Wushu Duanwei System Examination" held in Zhengzhou and Dengfeng City in China from August 15 to 19, 2009. As noted above, the beneficiary's Duan Wei certificate was issued on August 18, 2009. Based on the evidence of record, the

beneficiary was admitted to the United States on October 15, 2008, and had remained here continuously since that time, thus raising doubts regarding her participation in the examination held in China. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Doubt cast on any aspect of the petitioner's proof may, of course, lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Id.*

While the beneficiary's Sportsman title and Athlete Level I title appear to be significant personal accomplishments, the petitioner did not sufficiently corroborate how such titles equate to an international ranking in the sport. The titles are granted by the General Administration of Sport of China, a national organization. The petitioner has not provided reliable information confirming the significance of the titles. Similarly, the petitioner did not sufficiently document the significance of the "Wuying level" referenced by Professor Chen, provide independent confirmation of the beneficiary's receipt of this level or ranking, or provide evidence to corroborate counsel's assertion that such level would rank the beneficiary among the top three Wushu athletes in the world. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r. 1972)).

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 fifth 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 certificates and titles issued by the Chinese Sports Administration, the petitioner has submitted the following evidence:

1. Achievement Certificate for [REDACTED] other double apparatuses" event at The First World Traditional Wushu Festival held in Zhengzhou China in October 2004.
2. Achievement Certificate for [REDACTED] at The First World Traditional Wushu Festival.
3. Achievement Certificate for [REDACTED] at The Second World Traditional Wushu Championships held in Zhengzhou, China in October 2006.
4. Achievement Certificate for [REDACTED] at The Second World Traditional Wushu Championships.
5. A photograph of 3 gold medals from [REDACTED] A handwritten notation indicates that the medals were

awarded to the beneficiary for "Advanced Adult Female Staff," "Contemporary Broadsword, Female," and "Advanced Adult Female Chen Style Tai Chi Chuan." The photo includes screen shots of YouTube videos of the beneficiary performing in these events.

6. Award Certificates (4), for [REDACTED] at the 3<sup>rd</sup> Huanghe Golden Triangle Tai Chi Quan Invitational held in Henan province, China in October 2008.
7. Achievement Certificate for [REDACTED] at the Henan Province Wushu Taolu (Routines) Championship held in Zhengzhou, China on December 16, 2007.
8. Achievement Certificates (3) for [REDACTED] at the 2006 Henan Provincial Wushu Schools' Competition held in Jiaozuo, China in October 2006.
9. Award Certificate for [REDACTED] held on July 31, 2005, Zhengzhou, China.
10. Award Certificate for [REDACTED] held on August 11, 2004 in Wenzhou, Zhejiang, China.
11. Award Certificate for [REDACTED] at the 2004 National Youth Wushu Taolu Championships.

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 in judging the 2010 USAWKF National – International Wushu-Kungfu Championships and National Junior and Traditional Team Trials, July 2010.
2. The beneficiary's identification badge with the designation "USAWKF Judge: Programming Assistant" for the 2009 USA National Wushu Team Trials event, organized by the petitioning entity.
3. Letter of appreciation from Kung Fu Tai Chi Magazine and Tiger Claw, thanking the beneficiary for judging at Tiger Claw's 2<sup>nd</sup> KungfuMagazine.com Championships.
4. A badge or identification tag identifying the beneficiary as a judge at the 7<sup>th</sup> Annual Shark City Nationals competition.
5. A certificate of appreciation presented to the beneficiary for judging at the 2009 APTSJW Cup International Wushu and Dance Invitational.

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 the Xin Shuo Cup National Wushu Taolu Championships and National Youth Wushu Taolu Championships, and referred the director to "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." With respect to the beneficiary's experience as a judge, counsel indicated that the petitioner was submitting additional evidence to establish that the National Wushu Team Trials, Tiger Claw's KungFuMagazine.com Championships and Shark City Nationals are all "international level competitions." Counsel indicates that the beneficiary was invited to serve as judge "because of her outstanding recognition in the field." Finally, counsel indicated that the petitioner was submitting additional evidence regarding the international competitions in which the beneficiary has competed, including the First and Second World Traditional Wushu Championships and the University of California at Berkley CMAT event.

The director determined that the evidence submitted was insufficient to establish that any of the beneficiary's awards are internationally recognized in the sport as significant, to the extent that the recipient could derive an international reputation from having received them. The director noted that several of the competitions appeared to be regionally or perhaps nationally recognized.

On appeal, counsel asserts that "earning multiple first place awards in International competitions against hundreds of other competitors clearly indicates that she has won significant honors and awards in her 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.

In addition, counsel asserts that "[the beneficiary] has been granted the significant honor of appearing as a judge for Wushu practitioners at Wushu competitions. Referring to the letter from [REDACTED], counsel notes that "being asked to participate as a judge is a very distinct honor and is reserved for only the most well-known and accomplished Wushu practitioners." Counsel concludes by stating that "based on her first place awards at prestigious international and national competitions and the fact that only the accomplished practitioners are allowed to judge others, [the beneficiary] has undoubtedly received significant honors in her sport."

Upon review, the AAO concurs with the director's finding that this criterion has not been met. The petitioner submitted evidence to establish that the beneficiary had achieved first place finishes at the First and Second World Traditional Wushu Championships held in Zhengdong, China. The evidence of record indicates that over 2,000 competitors from over 60 countries competed in traditional Wushu events and that the festival is well-publicized and internationally recognized. The petitioner has not established, however, that the beneficiary's first-place awards in Female Group A and Group B events (for ages 13 and under and ages 14 to 17, respectively) conveyed to her international recognition in the sport. The record does not establish that the competition is of such stature that every athlete of any age who won a medal in any event could be considered internationally recognized. There is no evidence of contemporaneous publicity surrounding the beneficiary's 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. All of the beneficiary's other awards were won in youth-level national and regional competitions in China.

With respect to the beneficiary's gold medals at the CMAT event as an adult competitor, the petitioner has not submitted sufficient primary evidence that the beneficiary actually received the awards. The petitioner submitted a photograph of three medals along with screenshots of YouTube videos which depict the beneficiary competing. The petitioner has not submitted official results from the tournament or other reliable evidence to corroborate the beneficiary's receipt of the awards. Furthermore, while we note that while the CMAT appears to be one of the larger Chinese martial arts tournaments held in the United States, the evidence of record does not establish that the competition has an internationally-recognized reputation in the sport such that its medal winners receive recognition in more than one country as a result of their performance.

Finally, the petitioner has not established that the beneficiary's experience as a judge of Wushu competitions is a "significant honor or award" commensurate with international recognition. The petitioner has not submitted the official rules of the events at which the beneficiary judged or the USAWKF criteria for judges. There also appear to be different types and levels of judges at official Wushu competitions, including scoring judges, scheduler-recorder and registrar judges. The beneficiary was listed as an "Intern National Level Judge (CA)" in the program for the USAWKF 2010 National-International Wushu Kungfu Champions National Junior Wushu Team Trials, an event at which there were dozens of judges. The petitioner submitted a copy of the beneficiary's 2009 judging credential from the USAWKF National Wushu Team Trials. The credential identifies her as a "Judge: Programming Assistant." Again, absent documentation explaining how one becomes a judge at USAWKF sanctioned events, the petitioner's claim that these roles qualify as "significant honors or awards" is not persuasive.

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 be an instructor at the petitioner's school and acting as a judge at certain 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 a traditional Chinese martial arts school featuring classes in Wushu, Tai Chi, Kung Fu and Qi Gong. It further states that the school "has been active in holding and participating in national and international martial arts competitions in the United States."

The petitioner indicated that it currently employs the beneficiary as a martial arts expert in P-3 status, and that, in this role, she has been responsible for coaching Kung Fu and Tai Chi to the school's students and displaying her martial arts expertise at Chinese cultural events. The petitioner stated that the beneficiary will "continue bringing incredible knowledge and extraordinary expertise" by "competing in scheduled national or international competitions."

The petitioner indicated that it has no written contract of employment with the beneficiary, but noted that it has orally agreed to pay the beneficiary \$1,500 per month in exchange for her services as a competitive martial arts athlete.

The petitioner submitted a "competition timetable" for the beneficiary listing a total of nine tournaments to be held in California and Texas between January and October 2011. At one of the events, the USAWKF National-International Wushu-Kung Fu Championships, the beneficiary would serve as a judge. The petitioner indicated that the beneficiary would compete in all other events.

In the request for evidence issued on November 18, 2010, the director acknowledged receipt of the competition timetable, but noted that the schedule included only 9 events scheduled over a total of approximately 11 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 2, 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.

Upon review, the director denied the petition concluding that the beneficiary would not seeking a change of status to P-1 "solely to compete" in athletic competitions. The director noted that the petitioner did not adequately explain what the beneficiary will be doing when she is not competing in the nine athletic competitions listed on her itinerary. The director noted that USCIS had reviewed the petitioner's web site and found that the beneficiary's name was listed as an "instructor," and further emphasized that counsel had mentioned that the beneficiary would serve as a judge in at least two martial arts competitions. The director

concluded that the record failed to establish that the beneficiary would be solely engaged in athletic competition during the requested period of employment.

On appeal, counsel asserts that the beneficiary is seeking P-1 status "solely to compete and take part in martial arts competitions." Counsel stresses that the beneficiary was permitted to work for the petitioner in a coaching capacity, and notes that "should her P-1 visa be approved, Beneficiary would not continue working for the Petitioner and would instead focus all of her efforts on training for Wushu competitions and competing and participating in the Wushu competitions."

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. The petitioner did in fact acknowledge that it currently employs the beneficiary as a coach or instructor, but also stated that her duties would change if the P-1 petition is approved. There is only one confirmed event in which the beneficiary's services as a judge have been requested. If the petitioner were otherwise approvable, this event would be excluded. The petitioner clearly does not intend to employ the beneficiary as a judge, and there are inadequate grounds to conclude that she would continue to be employed as an instructor under an approved P-1 petition.

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.