



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **DEC 30 2014**

Office: CALIFORNIA SERVICE CENTER

FILE: [REDACTED]

IN RE:

Petitioner: [REDACTED]

Beneficiary: [REDACTED]

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(P)(iii) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(P)(iii)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
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. We will dismiss the appeal.

The petitioner filed the nonimmigrant petition seeking to classify the beneficiary under section 101(a)(15)(P)(iii) of the Immigration and Nationality Act (“Act”), 8 U.S.C. § 1101(a)(15)(P)(iii), as an artist or entertainer coming to the United States to perform under a culturally unique program. The petitioner is engaged in the teaching and performance of Chinese martial arts, referred to in the record as [REDACTED]. It seeks to employ the beneficiary as a martial arts instructor/performer for a period of one year.

The director denied the petition, concluding that the petitioner failed to establish that the beneficiary seeks to enter the United States solely to perform, teach or coach as a culturally unique artist or entertainer at a culturally unique event or events. The director determined that the petitioner did not establish that Chinese martial arts as practiced and taught within the context of the petitioner’s [REDACTED] school is a culturally unique art form. The director further found that the record establishes that the beneficiary is neither an artist nor an entertainer, but that he is an athlete, and as such, his proposed activities do not fall within the plain language of the statute at section 101(a)(15)(P)(iii)(I) of the Act, or within the regulatory definition of “arts.” The petitioner subsequently filed a combined motion to reopen/reconsider. The director granted the petitioner’s motion to reopen, but denied the petition. The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to us for review. On appeal the petitioner requests approval of the petition and provides copies of testimonial letters previously submitted into the record.

Upon review, the petitioner has not established that the beneficiary is a culturally unique artist or entertainer or that he is coming to the United States to participate in an event or events which will further the understanding or development of a culturally unique art form. In addition, the record establishes that the beneficiary is neither an artist nor an entertainer, but that he is an athlete, and as such, his proposed activities do not fall within the plain language of the statute at section 101(a)(15)(P)(iii)(I) of the Act, or within the regulatory definition of "arts."

I. The Law

Section 101(a)(15)(P)(iii) of the Act, provides for classification of an alien having a foreign residence which the alien has no intention of abandoning who:

- (I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and
- (II) seeks to enter the United States temporarily and solely to perform, teach, or coach as a culturally unique artist or entertainer or with such a group under a commercial or noncommercial program that is culturally unique.

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

Culturally unique means a style of artistic expression, methodology, or medium which is unique to a particular country, nation, society, class, ethnicity, religion, tribe, or other group of persons.

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.

The regulation at 8 C.F.R. § 214.2(p)(6)(i) further provides:

- (A) A P-3 classification may be accorded to artists or entertainers, individually or as a group, coming to the United States for the purpose of developing, interpreting, representing, coaching, or teaching a unique or traditional ethnic, folk, cultural, musical, theatrical, or artistic performance or presentation.
- (B) The artist or entertainer must be coming to the United States to participate in a cultural event or events which will further the understanding or development of his or her art form. The program may be of a commercial or noncommercial nature.

In addition, the regulation at 8 C.F.R. § 214.2(p)(6)(ii) states that a petition for P-3 classification shall be accompanied by:

- (A) Affidavits, testimonials, or letters from recognized experts attesting to the authenticity of the alien's or group's skills in performing, presenting, coaching, or teaching the unique or traditional art form and giving the credentials of the expert, including the basis of his or her knowledge of the alien's or group's skill, or
- (B) Documentation that the performance of the alien or group is culturally unique, as evidenced by reviews in newspapers, journals, or other published materials; and

- (C) Evidence that all of the performances or presentations will be culturally unique events.

Finally, the regulation at 8 C.F.R. § 214.2(p)(3) defines "arts" as follows:

Arts includes fields of creative activity or endeavor such as, but not limited to, fine arts, visual arts, and performing arts.

II. Discussion

The petitioner filed the Form I-129, Petition for a Nonimmigrant Worker, on January 24, 2013. In a letter submitted in support of the petition, the petitioner stated that the beneficiary will be employed as the petitioner's "Martial Arts Instructor/Performer" and that in performing his duties he will "provide [redacted] instructions to the students in the center and perform martial arts at a wide variety of other places in Oregon and Washington State." The petitioner describes itself as follows:

[The Petitioner] is the largest martial arts center in the Northwest of the United States. It is dedicated to providing the martial arts students the opportunity to fully understand, enjoy, and benefit from the practice of classical Chinese martial arts.

[The Petitioner] offers in-depth professional training in Chinese [redacted] and has scheduled classes for students of all ages at all levels of proficiency, from complete beginners . . . to advanced students seeking competition-level instruction Moreover, [the petitioner] actively participates in various exhibitions, competitions and performances

The petitioner initially attached an itinerary covering the period from January 16, 2013 to February 2014 which included the following:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10



- 11. [REDACTED]
- 12. [REDACTED]
- 13. [REDACTED]
- 14. [REDACTED]
- 15. [REDACTED]
- 16. [REDACTED]

As evidence of the authenticity of the beneficiary's culturally unique skills the petitioner submitted several testimonial letters, web site screenshots for its martial arts studio and photographs and a DVD pertaining to the beneficiary, described as [REDACTED] and a [REDACTED]. According to the petitioner's itinerary and website the school's program includes [REDACTED] and [REDACTED] performances and instruction. The petitioner's web site describes [REDACTED] as "[REDACTED] [REDACTED]" and [REDACTED].

The director issued a request for evidence ("RFE"). The director emphasized that the P-3 classification is intended for "an artist or entertainer," and noted that the beneficiary's skills are in the martial arts, in which participants are athletes rather than artists or entertainers. The director requested that the petitioner provide an explanation and documentary evidence to address this issue. The director requested additional evidence to establish that the beneficiary, in his role as instructor, would be participating in cultural events that will further the understanding or development of his art form.

The petitioner responded to the director's request, asserting that its original support material established the beneficiary's eligibility. The petitioner's response included several letters of appreciation, additional descriptions of instruction programs and performances listed on the petitioner's itinerary and additional photographs of the beneficiary teaching/performing for the petitioner.

The director denied the petition, concluding that the petitioner did not establish that the beneficiary is an artist or entertainer or that he seeks to enter the United States solely to perform, teach or coach as a culturally unique artist or entertainer at a culturally unique event or events. The director emphasized that the testimonial letters attested to the beneficiary's "skill in regards to his 'athletic ability in the martial arts.'" The petitioner filed a combined motion to reopen and reconsider, asserting that the evidence of record establishes the authenticity of the beneficiary's culturally unique skills and that all of his activities on behalf of the petitioner will be culturally unique. The petitioner's motion included additional testimonial letters and articles pertaining to the [REDACTED]. The director granted the motion to reopen but denied the petition on the same bases.

On appeal, the petitioner does not address the director's finding that the beneficiary would not be performing solely as an artist or entertainer, but instead emphasizes the cultural uniqueness of the petitioner's martial arts program, and the cultural uniqueness of the events in which the beneficiary would participate as a performer.

III. Analysis

A. Artist or Entertainer

The director determined that the beneficiary does not qualify for P-3 classification because he is not seeking solely to perform, teach, or coach as a culturally unique artist or entertainer in the United States, as required by section 101(a)(15)(P)(iii) of the Act. Section 101(a)(15)(P)(iii)(I) of the Act provides P-3 classification to aliens who perform as *artists or entertainers*, individually or as part of a group, or as an integral part of the performance of such a group. As stated previously, on appeal, the petitioner does address the director's finding that the beneficiary would not be performing solely as an artist or entertainer. The term "arts" includes "fields of creative activity or endeavor" and includes, but is not limited to, fine arts, visual arts, and performing arts. *See* 8 C.F.R. § 214.2(p)(3). The petitioner has not explained how the petitioner's school is dedicated to the "arts" or how the beneficiary's services as an instructor are artistic, rather than athletic, in nature, given the context of the terms and conditions of his employment. While the petitioner's school may teach authentic Chinese martial arts, the petitioner has not explained or demonstrated why the beneficiary, who apparently will spend the majority of his time instructing the petitioner's students, should be deemed an "artist or entertainer" for purposes of this classification. According to the evidence submitted, [REDACTED] is a sport and [REDACTED] sporting events are held at the world, continental, and national levels all over the world.

Chinese martial arts are not a "creative activity or endeavor" such that its practitioners could be considered "artists" according to the regulatory definition of arts. The petitioner has provided evidence that the beneficiary is coming to the United States, in part, to instruct students in an athletic discipline and to compete in an athletic discipline. While it appears that some of the events described in the itinerary will require the beneficiary's services as a performer or entertainer, it is evident that he will not be providing services *solely* as an artist, performer or entertainer, as required by the plain language of the statute and regulations. As such, the beneficiary is not an alien who can be classified as a P-3 artist or entertainer, and the petition cannot be approved for this reason.

B. Culturally Unique Program

Even assuming, *arguendo*, that the petitioner had established that the beneficiary is coming to the United States solely to perform services as an artist or entertainer as required by the statute, the petitioner did not meet the evidentiary requirements for a petition involving a culturally unique program, as set forth at 8 C.F.R. § 214.2(p)(6)(ii).

Specifically, the regulation at 8 C.F.R. § 214.2(p)(6)(ii) requires that the petitioner establish that the beneficiary's performance or art form is culturally unique through submission of affidavits, testimonials and letters, or through published reviews of the beneficiary's work or other published materials. Regardless of which form of evidence is submitted, the evidence must establish that the beneficiary presents, performs, teaches or coaches a style of artistic expression, methodology, or medium which is unique to a particular country, nation, society, class, ethnicity, religion, tribe, or other group of persons. The petitioner's evidence will be discussed below.

1. *Affidavits, testimonials or letters from recognized experts*

The regulation at 8 C.F.R. § 214.2(p)(6)(ii)(A) allows the petitioner to submit affidavits, testimonials, or letters from recognized experts attesting to the authenticity of the alien's or group's skills in performing, presenting, coaching, or teaching the unique or traditional art form and giving the credentials of the expert, including the basis of his or her knowledge of the alien's or group's skill. The petitioner initially submitted three testimonial letters as evidence of the authenticity of his culturally unique skills.

The first letter is from [REDACTED] President of the [REDACTED] [REDACTED] Mr. [REDACTED] describes the beneficiary as follows:

[The beneficiary] is an accomplished martial artist. From childhood, he received formal [REDACTED] training at the [REDACTED] and obtained a bachelor's degree in [REDACTED] [REDACTED] . . . [The beneficiary] has participated in a number of national and international performances In addition, [the beneficiary] has served as referee for Beijing elementary and middle school martial arts and [REDACTED] Tournament.

Mr. [REDACTED] letter did not include the basis of his knowledge of the beneficiary's skill.

The second letter is from [REDACTED], Chairman of the [REDACTED] Committee and Vice President of the [REDACTED] Mr. [REDACTED] describes the beneficiary as "an outstanding Martial Arts Performer/Instructor with unique skills important to the field of martial arts" and as "a young and promising martial arts star." He states that "by virtue of my professional relationships, I got to know [the beneficiary] through various martial arts events in China." He further describes the beneficiary as having "successfully designed very effective and beautiful martial arts feats and skills which are culturally unique, as part of traditional Chinese culture," such as the [REDACTED] Dance. He states that the lion dance "originated in China close to a thousand years ago," and that [REDACTED] Dance is prevalent in the northern area of China. He describes [REDACTED] dance as "acrobatic" and mainly performed for entertainment in a colorful lion costume. He states that the beneficiary's performance of the [REDACTED] Dance "inherits from tradition and develops many specific actions for the dance." He contends that in the United States [REDACTED] Dance has [sic] seldom known by the people." Mr. [REDACTED] explains that "[REDACTED] are the big 4 of Chinese martial arts," and he describes the beneficiary is "an expert in [REDACTED]" "good at [REDACTED]" and having a "high level of skills in [REDACTED] martial arts. He states that [REDACTED] "tend [sic] to be little known by the people in the West" and that [REDACTED] "is not a widely spreaded [sic] [REDACTED] style in the U.S., and few people practice it."

The petitioner also submits a letter from [REDACTED] Vice President and Vice Chairman of the [REDACTED] Mr. [REDACTED] describes the beneficiary as "good at [REDACTED]" and states that both of these martial arts "have few people practice

[sic] in the U.S” and as “seldom known by the U.S. people.” He also describes the beneficiary as “a professional martial artist” having “outstanding contributions” in Shaolin martial arts techniques and Mr. letter did not include the basis of his knowledge of the beneficiary’s skill.

The director issued a request for further evidence (“RFE”), establishing both that the beneficiary’s performance or art form is culturally unique and that all of the performances or presentations will be culturally unique events. The petitioner responded to the director’s request, asserting that its original support material established the beneficiary’s eligibility. The petitioner’s response included several letters of appreciation, additional testimonial letters, additional descriptions of instruction programs and performances listed on the petitioner’s itinerary and additional photographs of the beneficiary teaching/performing for the petitioner.

The letters of appreciation were addressed to the petitioner for a class for an Asian Heritage Month celebration at Oregon, a performance at a cultural festival at the and a class for an Asian Heritage Month celebration at Oregon for inviting students from the to attend two martial arts classes at the petitioner’s center.

Additional testimonial letters included a letter from , Founder and Chairman of the Mr. describes the beneficiary as “one of the best martial artists that I have ever seen.” He states that he “got to know [the beneficiary] through various martial arts performance [sic] and exhibitions.” He states that he is “greatly impressed by [the beneficiary’s] superior skills in ’ martial arts, whose practitioners he describes as being “a minority in the U.S.” He also praises the beneficiary’s “unique skills in martial arts, which he describes as a style that is not very popular in the United States. He further praises the beneficiary as being an “exceptional talent in Dance.” He describes Dance as not in the mainstream in the United States. He further describes the Dance as involving a lion that “looks pretty much like a Peking dog, with its whole body covered in long fur. It will normally perform in pairs with another person holding a ball for the pair of lion[s] to chase after.” He describes the beneficiary and his dance partner as being “outstanding martial artists in performing Dance” as follows:

In their performance, they show their very active, happy, and playful movements. They chase after the ball, by leaping over tables, chairs, spinning themselves in 360 degrees stunt and rolling over one and another. Without formal training and solid martial arts foundation, they would not deliver such a good and professional performance They preserve the characteristic of Chinese culture.

The director denied the petition on November 26, 2013, concluding that the petitioner failed to establish that the beneficiary is an artist or entertainer or that he seeks to enter the United States solely to perform, teach or coach as a culturally unique artist or entertainer at a culturally unique event or events.

The petitioner filed a combined motion to reopen and reconsider the director’s decision. The petitioner’s motion included articles and documentation from various sources about Dance and four additional testimonial letters.

The petitioner submitted a letter from [REDACTED] President of the [REDACTED] Sports Association, which he describes as a “leisure sports organization” in China. Mr. [REDACTED] states that “[i]n the past, I have [sic] opportunity to view [REDACTED] Dance performed by [the beneficiary and his partner] . . . and I am impressed by their superior skills and tacit cooperation during the performance.” He describes lion dance in general as “a combination of history, performing, art, and Chinese martial arts [REDACTED].” He further explains:

The [REDACTED] dance was also chosen by the [REDACTED] a governing body of sports in Asia and one of the five continental associations recognized by the [REDACTED], as one of the sports needed to be promoted because of its cultural uniqueness. It is internationally recognized that lion dance [sic] deeply rooted in traditional Chinese culture and spread from China to other countries.

He describes [REDACTED] Dance as mimicking a “lion in a martial manner, with a lot of highly difficult movements.” He states that the beneficiary has “exceptional talents in [REDACTED] Dance” because of his “solid martial arts foundation.”

The record also contains a letter from [REDACTED], Vice President of [REDACTED] Association. Mr. [REDACTED] describes lion dance as belonging to “folk dance,” and [REDACTED] Dance as blending into “much more Chinese martial arts [REDACTED] movements.” Mr. [REDACTED] states that “[i]n order to excel in [REDACTED] Dance the performer must be good at Chinese martial arts ([REDACTED] or [REDACTED])” and that the beneficiary has a “solid Chinese martial arts [REDACTED] or [REDACTED] foundation.” Mr. [REDACTED] states that he has watched the beneficiary’s “fantastic performance” of the [REDACTED] Dance.

The petitioner also submitted a letter from [REDACTED], Operations Manager, [REDACTED]. Mr. [REDACTED] letter did not include the basis of his knowledge of the beneficiary’s skill. He describes traditional [REDACTED] Dance as generally being characterized by “[d]aring acrobatic feats . . . at its highest level.”

The petitioner further submitted a letter from [REDACTED] the director of a self-described lion dance and martial arts performing group in San Francisco. Although Mr. [REDACTED] describes the beneficiary as a master of the [REDACTED] Dance, his letter did not include the basis of his knowledge of the beneficiary’s skill. He describes the [REDACTED] Dance as “an ancient cultural treasure” from “over 1000 years ago” and “rarely seen.”

On appeal, the petitioner explains that [REDACTED] “is not a separate activity or event from [REDACTED] Dance. It is an integral part or basic skills of the [REDACTED] Dance. The performers must possess Wushu skills in order to perform [REDACTED] Dance.”

The regulation at 8 C.F.R. § 214.2(p)(6)(ii) specifically requires “letters from recognized experts attesting to the authenticity of the alien's or group's skills in performing, presenting, coaching, or teaching the unique or traditional art form and giving the credentials of the expert, including the basis of his or her knowledge of the alien's or group's skill.” As a matter of discretion, USCIS may accept

expert opinion testimony.¹ USCIS will, however, reject an expert opinion or give it less weight if it is not in accord with other information in the record or if it is in any way questionable. *Matter of Caron International, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988). USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought; the submission of expert opinion letters is not presumptive evidence of eligibility. *Id.*; see also *Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008) (“[E]xpert opinion testimony, while undoubtedly a form of evidence, does not purport to be evidence as to ‘fact’ but rather is admissible only if ‘it will assist the trier of fact to understand the evidence or to determine a fact in issue.’”); see also *Matter of Skirball Cultural Center*, 25 I&N Dec. 799, 805 (AAO 2012) (holding that the petitioner bears the burden of establishing by a preponderance of the evidence that the beneficiaries’ artistic expression, while drawing from diverse influences, is unique to an identifiable group of persons with a distinct culture; it is the weight and quality of evidence that establishes whether or not the artistic expression is “culturally unique.”)

In *Matter of Skirball Cultural Center*, we found sufficient scholars’ letters explaining in detail how Klezmer music in general is the music of a specific ethnic group of people, and how the Argentine version, which combines Eastern European roots with native Argentine culture, produces a unique Jewish Argentine music. *Id.* at 802-03. The evidence of record supports the petitioner’s assertion that the beneficiary’s performance of Chinese [REDACTED] Dance is a culturally unique activity, as demonstrated by the petitioner's submission of articles discussing the history of the form and the techniques used. However, the record lacks expert letters that detail the culturally unique aspects of the beneficiary’s duties instructing and performing [REDACTED] as found in *Matter of Skirball Cultural Center*. Rather, the letters in the record are conclusory. USCIS need not accept primarily conclusory assertions. *1756, Inc. v. The Attorney General of the United States*, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

The director found that, while the submitted letters praise the beneficiary’s skills as a martial artist, the testimonial evidence did not satisfy the requirements of 8 C.F.R. § 214.2(p)(6)(ii)(A) because the evidence submitted did not discuss how the beneficiary’s duties instructing and performing Chinese martial arts are culturally unique. The director observed that the record indicates that [REDACTED] is taught and practiced worldwide, and the record does not distinguish how the beneficiary's style of martial arts remains culturally unique to China. The letters describe the beneficiary as an “an outstanding Martial Arts Performer/Instructor” who has made “outstanding contributions” to the development of martial arts, without mentioning any culturally unique aspects of his performance.

In addition, while the authors of the letters discussed their own credentials, the petitioner failed to submit evidence to establish that several of the authors are “recognized experts” in the beneficiary's

¹ Depending on the specificity, detail, and credibility of a letter, USCIS may give the document more or less persuasive weight in a proceeding. The Board of Immigration Appeals (the Board) has held that testimony should not be disregarded simply because it is “self-serving.” See, e.g., *Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing cases). The Board also held, however: “We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available.” *Id.* If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998).

field as required by the plain language of the regulation. The petitioner is required to “give the credentials of the expert, including the basis of his or her knowledge of the alien's or group's skill,” pursuant to 8 C.F.R. § 214.2(p)(6)(ii)(A). Here, several of the persons providing testimonial evidence have not fully established the basis of their knowledge of the beneficiary's skill.

The testimonial letters do not indicate what makes Chinese [REDACTED] and the specific form of [REDACTED] practiced by the beneficiary, unique from the form of the sport that is practiced worldwide and governed by the [REDACTED] the international governing body of the sport. USCIS need not accept primarily conclusory assertions. *1756, Inc. v. The Attorney General of the United States*, 745 F. Supp. 9, 18 (D.C. Dist. 1990). While the AAO acknowledges [REDACTED] is a Chinese martial art, simply establishing that the beneficiary is a skilled and well-qualified [REDACTED] practitioner trained in China is not sufficient to demonstrate his eligibility for this classification. Here, the letters submitted cannot be deemed probative of the "culturally unique" nature of the beneficiary's performance. The evidence of record supports the director's determination that the testimonial evidence does not satisfy the evidentiary criterion at 8 C.F.R. § 214.2(p)(6)(ii)(A).

2. Documentation that the performance of the alien or group is culturally unique

The regulation at 8 C.F.R. § 214.2(p)(6)(ii)(B) allows the petitioner to submit documentation that the performance of the alien or group is culturally unique, as evidenced by reviews in newspapers, journals, or other published materials.

The petitioner has submitted articles regarding [REDACTED] Dance. The petitioner also submitted photographs and a DVD pertaining to the beneficiary, described as [REDACTED] and a [REDACTED]. The regulation allows the petitioner to submit evidence that the beneficiary's performance is culturally unique, as evidenced by reviews in newspapers, journals or other published materials. The petitioner has not submitted any published materials that mention the beneficiary by name, and thus it has not satisfied this criterion.

Therefore, the petition may not be approved as the petitioner has not submitted evidence to satisfy the evidentiary requirements at 8 C.F.R. § 214.2(p)(6)(ii)(A) or (B).

3. Evidence that all of the performances or presentations will be culturally unique events

The director determined that the beneficiary's proposed performances or presentations as a martial arts athlete/instructor will not be culturally unique events pursuant to 8 C.F.R. § 214.2(p)(6)(ii)(C).

The evidence of record supports the director's determination. The “events” in which the beneficiary will participate include daily martial arts classes for students of various levels, at which he will not be “performing” or “presenting” as an artist or entertainer. The evidence does not establish that a [REDACTED] class is a culturally unique event.

The petitioner cannot establish the beneficiary's eligibility as a culturally unique artist simply by claiming that he will be performing “Chinese [REDACTED]” and establishing that he was trained in the sport

in China. Similarly, the fact that some of the beneficiary's duties will involve performing the [REDACTED] Dance in the United States cannot establish the beneficiary's eligibility as a culturally unique artist. The petitioner bears the burden of establishing through submission of evidence that the beneficiary's performance across all events and activities is in fact unique to a particular country, nation, society, class, ethnicity, religion, tribe or identifiable group of persons with a distinct culture. 8 C.F.R. § 214.2(p)(3).

Based on the foregoing, the petitioner has not established that the beneficiary will be performing as an artist or entertainer at culturally unique events, as required by 8 C.F.R. § 214.2(p)(6)(ii)(C).

IV. Conclusion

In summary, the statute requires that the beneficiary be an "artist or entertainer" and that he enter the United States solely to perform, teach, or coach under a program that is culturally unique. Section 101(a)(15)(P)(iii)(II) of the Act, 8 U.S.C. § 1101(a)(15)(P)(iii)(II). To obtain classification of the beneficiary under this section of the Act, the petitioner must submit evidence that the beneficiary's form of artistic expression and all of the beneficiary's performances or presentations will be events that meet the regulatory definition of the term "culturally unique." 8 C.F.R. §§ 214.2(p)(3) and 214.2(p)(6)(ii). The petitioner failed to meet these evidentiary requirements. Accordingly, the appeal will be dismissed.

The petition will be denied and the appeal dismissed for the above stated reasons, with each considered as an independent and alternative basis for denial. When we deny a petition on multiple alternative grounds, a plaintiff can succeed on a challenge only if he shows that we abused our discretion with respect to all of our enumerated grounds. *Spencer Enterprises, Inc.*, 229 F.Supp at 1043.

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; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.