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U.S. Citizenship and Immigration Services

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FEB 12 2004

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date:
WAC 00 157 55020

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Marc Johnson

Robert P. Wiemann, Director
Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was initially approved by the Director, California Service Center. On the basis of new information received and further review of the record, the director determined that the petitioner was not eligible for the benefit sought. Accordingly, the director properly served the petitioner with notice of intent to revoke the approval of the immigrant visa petition, and the reasons therefore, and ultimately revoked the approval of the petition on February 28, 2003. The matter is now before the AAO on appeal. The appeal will be dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability in the sciences and athletics. The director determined the petitioner had not established that he qualifies for classification as an alien of extraordinary ability.

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

> (1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):
>
> > (A) Aliens with Extraordinary Ability. -- An alien is described in this subparagraph if --
> >
> > > (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
> > >
> > > (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
> > >
> > > (iii) the alien's entry to the United States will substantially benefit prospectively the United States.

As used in this section, the term "extraordinary ability" means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his field of expertise are set forth in the regulation at 8 C.F.R. § 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that he has sustained national or international acclaim at the very top level.

This petition, filed on May 2, 2000, seeks to classify the petitioner as an alien with extraordinary ability as a consultant in athletic rehabilitation and training. The regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, international recognized award). Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. The petitioner has submitted evidence that, counsel claims, meets the following criteria.

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

The petitioner submitted evidence of his receipt of the following:

1. Certificate from the International Sports Veterans Association presented in San Francisco in 1997
2. Certificate of Merit from the International Federation of Body Builders presented in Montreal, Canada
3. Certificate from Moscow Bodybuilding Association for successful "scientific and training work with the Moscow bodybuilding team" (1996)
4. Diploma from the Physical Committee of Culture and Sport "for active participation and helping to hold Moscow Bodybuilding Open Competition" in 1996
5. Certificate from the International Olympic Committee in recognition of participation in the 1998 World Youth Games in Moscow
6. Honor Certificate from Orenburg State Medical Institute, the educational institution where the petitioner studied from 1980 to 1986, for "creative research in the Subordinator '86 Competition."

Competition for the Honor Certificate from Orenburg State Medical Institute appears to have been limited to student researchers from the petitioner's educational institution. An award based on student achievement at a given educational institution does not constitute a nationally or internationally recognized "award for excellence in the field of endeavor." Such an award, which is local, rather than national or international in scope, offers no meaningful comparison between the petitioner and more experienced individuals who had long since completed their educational training.

The significance and importance of the remaining certificates are not self-evident. The petitioner offers no evidence showing that the certificates constitute a top honor in his field, rather than simply acknowledging his participation in a sporting event or his association with a particular athletic team. It should be emphasized that the petitioner must submit documentary evidence showing the degree of recognition accorded to his awards. The evidence provided does not indicate the total number of awards presented at each event, how many other individuals were similarly recognized, the criteria used in determining recipients, or the level of media coverage associated with the award presentations. We note here that section 203(b)(1)(A)(i) of the Act requires extensive documentation of sustained national or international acclaim. Pursuant to the statute, the petitioner must provide evidence to establish that the certificates presented under this criterion enjoy significant national or international stature. Simply receiving an award with the word "national" or "international" in its title would not satisfy this very restrictive criterion. In this case, the petitioner has not shown that the above awards were significant beyond the context of the event where they were presented.

*Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.*

In order to demonstrate that membership in an association meets this criterion, the petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. In addition, it is clear from the regulatory language that members must be selected at the national or international, rather than the local, level. Therefore, membership in an association that evaluates its membership applications at the local chapter level would not qualify. Finally, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association's overall reputation.

The petitioner submitted evidence of his membership in the Russian Federation of Bodybuilding, Moscow Bodybuilding Association, Russian Association of Reflex-therapy, and International Academy of Sciences, Education, Industry and Arts. The record contains no documentation (such as, for example, membership bylaws) showing that these organizations require outstanding achievements of their members, as judged by recognized experts at the national or international level.

> *Published materials about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.*

In general, in order for published material to meet this criterion, it must be primarily about the petitioner and, as stated in the regulations, be printed in professional or major trade publications or other *major* media. To qualify as major media, the publication should have significant national distribution and be published in a predominant language. Some newspapers, such as the *New York Times*, nominally serve a particular locality but would qualify as major media because of significant national distribution, unlike small local community papers.

The petitioner submitted certified translations of two articles appearing in *Sovetskiy Sport* in 1994 and 1995. It has not been established that *Sovetskiy Sport* qualifies as a major national sports publication. In addition, it is noted that the two articles devote only a few brief sentences to the petitioner. The plain wording of the regulation, however, requires the petitioner to submit "published materials about the alien" and we find that the petitioner's articles do not meet this requirement. Furthermore, because the statute requires *sustained* national or international acclaim, a mere two articles from 1994 and 1995 would not fulfill this criterion.

We find the evidence presented does not show that the petitioner has been the subject of sustained major media coverage.

> *Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.*

The petitioner provided evidence from the Russian Federation of Bodybuilding showing that the petitioner served as a judge at seven national level bodybuilding competitions from 1995 through 1998. We hereby withdraw the director's finding that the petitioner's evidence does not satisfy this criterion. Our determination on this issue does not affect the ultimate decision of the director, as the petitioner was not able to establish eligibility under at least three of the criteria as required by regulation.

> *Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.*

Counsel argues that the petitioner's scholarly publications satisfy this criterion. Published work falls under another criterion; to satisfy this criterion, the petitioner must show not only that his work was published, but that it has major significance in the field.

The evidence presented here falls short in demonstrating that the petitioner's physical training theories represent a scientific contribution of major significance. The burden is on the petitioner to provide extensive documentation showing that his sports theories and research conclusions are viewed throughout the field as a major contribution. The petitioner's authorship of published materials may demonstrate that his research

efforts yielded some useful and valid results; however, it is apparent that any article, in order to be accepted in for publication, must offer new and useful information to the pool of knowledge. It does not follow that every individual whose scholarly research is accepted for publication has made a major contribution to his field. We will further address the petitioner's published works under a separate criterion.

In this case, the petitioner's witnesses consist almost entirely of individuals having direct ties to the petitioner. If the petitioner's work is not widely praised throughout the greater field, then it cannot be concluded that he has earned sustained national or international acclaim for contributions of major significance in his field. The petitioner has not provided evidence that his research, to date, has attracted significant attention from independent researchers on a national or international scale. An individual with sustained national or international acclaim should be able to produce ample unsolicited materials reflecting that acclaim. The absence of substantial independent testimony raises doubt as to the extent of the petitioner's recognition.

> *Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.*

The petitioner submits evidence of his published work appearing in *Sovetskiy Sport* and the *Journal of Body Architecture and Strength Development*. Also submitted was a listing of articles authored by the petitioner at Orenburg State Medical Institute. However, the publication of scholarly articles is not automatic evidence of sustained national or international acclaim; we must also consider the research community's reaction to those articles. When judging the influence and impact that the petitioner's work has had, the very act of publication is not as reliable a gauge as is the citation history of the published works. Publication alone may serve as evidence of originality, but it is difficult to conclude that a published article is important or influential if there is little evidence that other researchers have relied upon the petitioner's conclusions. Frequent citation by independent researchers would demonstrate more widespread interest in, and reliance on, the petitioner's work. The record, however, contains no evidence showing that the petitioner's articles were heavily cited. The petitioner has clearly authored some published articles, but the weight of this evidence is diminished by the lack of direct evidence that these articles have influenced his field.

We further note that the plain wording of the regulation requires authorship of scholarly articles "in professional or major trade publications or other major media." In this case, the petitioner has not submitted documentation establishing the national or international circulation of the publications featuring his work. For example, it has not been shown through independent evidence such as media guides (or letters from the publications' editors) that the magazines and journals featuring the petitioner's articles would qualify as major national media. Counsel's assertion regarding the extent of *Sovetskiy Sport*'s distribution does not constitute evidence. *Matter of Laureano*, 19 I&N Dec. 1, 3 (BIA 1983); *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

> *Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.*

In order to establish that he performed in a leading or critical role for an organization or establishment with a distinguished reputation, the petitioner must establish the nature of his role within the entire organization or establishment and the national or international reputation of the organization or establishment.

The petitioner provided a letter from the president of the Moscow Bodybuilding Association stating: "[The petitioner was] a member of the Executive Committee of the Moscow Bodybuilding Association [from] 1990 to 1997. [The petitioner] provided...significant help in preparation of a combined team [from] Moscow for...competitions..." The letter further states: "The techniques used by him allowed the sportsmen to overcome training loads easier and achieve high sports outcomes in competitions." From these statements, it is apparent that the petitioner occupied a supporting role as the Moscow team's sports medicine and rehabilitation specialist rather than as a leader or significant contributor to the success of the overall organization. We find it reasonable to conclude that the coaches or the athletes themselves had the most significant roles within this organization. Moreover, the record lacks evidence showing that the petitioner's role on the committee was more important than that of the eight other committee members or the executive officers (such as the president, for example). Aside from the issue that, from its name, this is a local (rather than a national or international) association, the petitioner has not presented documentary evidence (such as published articles, for example) showing that the Moscow Bodybuilding Association has earned distinguished reputation in the bodybuilding sport.

For the above stated reasons, we find that the petitioner's evidence falls short of establishing that the petitioner has performed in a leading or critical role for a distinguished organization, or that his involvement attracted sustained national or international attention.

> *Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.*

The petitioner has presented no evidence showing that he is among the highest-paid individuals in his field. Counsel's assertion that the petitioner has earned a high salary does not constitute evidence. *Matter of Laureano, Matter of Obaigbena, Matter of Ramirez-Sanchez, supra.*

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim, is one of the small percentage who has risen to the very top of the field of endeavor, and that the alien's entry into the United States will substantially benefit prospectively the United States. The petitioner in this case has failed to demonstrate that he meets at least three of the criteria that must be satisfied to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability.

Review of the record does not establish that the petitioner has distinguished himself to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of his field. The evidence is not persuasive that the petitioner's achievements set him significantly above almost all others in his field at the national or international level. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The burden remains with the petitioner in revocation proceedings to establish eligibility for the benefit sought under the immigration laws. *Matter of Cheung*, 12 I&N Dec. 715 (BIA 1968), affirmed in *Matter of Estime*, 19 I&N Dec. 450 (BIA 1987) and *Matter of Ho, supra*. Here, the petitioner has not sustained that burden.

**ORDER:** The appeal is dismissed.