(b)(6)

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

U.S. Citizenship and Immigration Services

DATE: MAY 26 2015

IN RE: PETITIONER:
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:

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO**.

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. We subsequently dismissed the petitioner's appeal. The matter is now before us on a motion to reopen. We will dismiss the motion.

I. Motion to Reopen

The regulation at 8 C.F.R. § 103.5(a)(1)(iii)(C) informs the public of the filing requirements for a motion and provides, in pertinent part, that a motion must be: "Accompanied by a statement about whether or not the validity of the unfavorable decision has been or is the subject of any judicial proceeding and, if so, the court, nature, date, and status or result of the proceeding."

In the instant motion, the petitioner has not submitted a statement indicating if the validity of our October 29, 2014 unfavorable decision has been or is the subject of any judicial proceeding. The regulation at 8 C.F.R. § 103.5(a)(4) requires that "[a] motion that does not meet applicable requirements shall be dismissed." We therefore will dismiss the motion on this basis. Regardless, the petitioner has not otherwise shown his eligibility for the petition. Accordingly, if we granted the motion to reopen based on the submission of new evidence, we would reaffirm our prior decision. While the petitioner did not indicate he was jointly filing a motion to reconsider, we note that the filing does not meet the requirements of a motion to reconsider.

A motion to reopen must state the new facts to be provided and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that our original decision was based on an incorrect application of law or United States Citizenship and Immigration Services (USCIS) policy. 8 C.F.R. § 103.5(a)(3). A motion to reconsider contests the correctness of the original decision based on the previous factual record, as opposed to a motion to reopen which seeks a new hearing based on new or previously unavailable evidence. *Compare* 8 C.F.R. § 103.5(a)(3) and 8 C.F.R. § 103.5(a)(2).

In support of his motion, the petitioner has submitted: (1) a May 14, 2007 article entitled [redacted]' posted on [redacted] (2) a previously submitted online printout from [redacted] and (3) a previously submitted online printout from [redacted] entitled [redacted] On motion, the petitioner asserts that he, as a mixed martial arts (MMA) fighter, meets the criteria set forth under the regulations at 8 C.F.R. § 204.5(h)(3)(i), (iii) and (viii).

> *Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.* 8 C.F.R. § 204.5(h)(3)(i).

On motion, the petitioner asserts that his [redacted] 2013 wins at the [redacted] Championships constitute evidence in support of this criterion. As we noted in a footnote in our previous decision, the record includes no evidence showing that the petitioner has participated in the [redacted] Championships in 2013. Rather, the record shows that he participated in the events

in 2012. Moreover, the petitioner has not shown that he meets this criterion for the following reasons.

First, the petitioner has not shown that his wins at the 2012 events are nationally or internationally recognized. The petitioner points to the reporting of the events on as evidence that the events are nationally and internationally recognized. The petitioner also asserts on motion that "covers solely nationally and internationally recognized fights hosted by recognized promotions, like etc." The petitioner, however, has not submitted sufficient evidence in support of this assertion. On motion, the petitioner submits a 2007 article, entitled ' This document shows that and entered into "a cross-promotional and content integration agreement." Neither the article nor any other evidence in the record shows that enters into cross-promotional and content integration agreements with websites that only cover nationally or internationally recognized MMA events. In fact, the article states that provides "news, information and analysis about This statement contradicts the petitioner's assertion that covers "solely nationally and internationally recognized fights." On motion, the petitioner also asserts that is one of the most well-known promotions for MMA – mixed martial arts." The petitioner, however, has not pointed to any evidence in the record in support of his assertion. Going on record without supporting documentary evidence is not sufficient for the purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Assoc. Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

In addition, as we noted in our previous decision, which the petitioner has not challenged on motion, the evidence submitted to show the prestige and status of comes from We need not rely on the self-promotional material of the publisher when determining the status of a publication. *See Braga v. Poulos*, No. CV 06 5105 SJO, 2007 WL 9229758, at *1, 6-7 (C. D. CA July 6, 2007), *aff'd*, 2009 WL 604888 (9th Cir. 2009) (concluding that we did not have to rely on self-serving assertions on the cover of a magazine as to the magazine's status as major media). As noted in our decision, although the website provides more specific details, such as the number of unique visitors per month (over 9.5 million), the petitioner has not demonstrated that this site reports only the results of nationally recognized matches rather than serving as a comprehensive source for results in all professional matches. Indeed, on motion, the petitioner states that "does in fact cover a large array of fights and competitions." The article similarly states that the website provides information '

Second, as we concluded in our previous decision, which the petitioner has not challenged on motion, the petitioner has submitted an uncertified English translation to show he won a match at the 2012 This uncertified translation has no evidentiary weight because the petitioner has not provided a translation certificate that meets the regulatory requirements under 8 C.F.R. 103.2(b)(3). In the alternative, the uncertified translation does not indicate that the petitioner received any prize or award at the event. Rather, it shows that the

petitioner was one of 13 people who each won a match at the event. The record includes no evidence that as the result of the win, the petitioner or any other winners received a prize or award. Similarly, evidence showing that the petitioner won a match at the 2012 does not establish that he received a prize or award for excellence, as required under the plain language of the criterion. As discussed in our previous decision, the 2012 event had eight winners, one from each match. The petitioner has not presented evidence showing that he or any of the other winners received any awards or prizes as the result of the win.

Finally, as we concluded in our previous decision, which the petitioner has not challenged on motion, his participation in events that postdate the filing of his petition in July 2013 cannot be consider as evidence under this criterion. As explained in our previous decision, the petitioner cannot secure a priority date based on the anticipation of future receipt of qualifying awards or prizes under this criterion. *See Matter of Wing's Tea House*, 16 I&N Dec. 158, 160 (Reg'l Comm'r 1977); *Matter of Izummi*, 22 I&N Dec. 169, 175-76 (Assoc. Comm'r 1998) (adopting *Matter of Bardouille*, 18 I&N Dec. 114 (BIA 1981) for the proposition that USCIS cannot "consider facts that come into being only subsequent to the filing of a petition.")

Accordingly, the petitioner has not presented documentation of his receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. The petitioner has not met this criterion. *See* 8 C.F.R. § 204.5(h)(3)(i).

> *Published material 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.* 8 C.F.R. § 204.5(h)(3)(iii).

On motion, the petitioner asserts that he meets this criterion because he has submitted "multiple articles on him from various Internet websites and Internet blogs." The petitioner has not shown that he meets this criterion.

First, the petitioner has not shown that radarnoticias.com constitutes a professional or major trade publication or other major media. On motion, the petitioner asserts that is "a nationally recognized news site in Brazil, with over one thousand unique visitors every day." As discussed in our previous decision, which the petitioner has not challenged on motion, the evidence in the record indicates that website traffic is ranked number in the world and its google page rank is 0. The petitioner has not shown that these figures are indicative of the website's status as major media. In addition, as noted in our decision, the petitioner has not submitted certified English translations for the materials posted on the website. The uncertified English translations, therefore, do not have any evidentiary weight. *See* 8 C.F.R. 103.2(b)(3). Moreover, on motion, the petitioner has not challenged our finding that the materials posted on are not about the petitioner as relating to his work in the field. Rather, the materials describe the Championship in 2012 and list the petitioner as one of the event participants. The focus of the materials is not the petitioner. Rather, the focus is the event.

Second, the petitioner has not shown that constitutes a professional or major trade publication or other major media. As noted, the vague, self-promotional materials about the website have limited evidentiary value. *See Braga*, 2007 WL 9229758 at *6-7. Moreover, as we found in our previous decision, which the petitioner has not challenged on motion, the petitioner's profile, posted on lacks information on the author or the date of the publication, as required under the criterion. Furthermore, on motion, the petitioner has not challenged our finding that materials from this website are not about the petitioner, relating to his work, because they merely list him as an MMA event participant who has won a match. These materials are not published materials about the petitioner as relating to his work, as required under the plain language of the criterion. These materials are about the events, not the participants.

Finally, the petitioner has not shown that materials posted on meet this criterion. The record includes a printout entitled "Statistics." As noted in our previous decision, the statistics relate to as a whole. Videos on this website can be uploaded by anyone who has internet access, and the level of viewership of each video uploaded ranges dramatically. In addition, as we concluded in our decision, which the petitioner has not challenged on motion, two links are to videos of fights in which the petitioner purportedly participated, without any additional information about the petitioner or his work, and they do not constitute "published material about [the petitioner] . . . , relating to [his] work," as the phrase is used in the criterion.

Accordingly, the petitioner has not presented published material about him in professional or major trade publications or other major media, relating to his work in the field for which classification is sought. The petitioner has not met this criterion. *See* 8 C.F.R. § 204.5(h)(3)(iii).

> *Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.* 8 C.F.R. § 204.5(h)(3)(viii).

On motion, the petitioner asserts that he meets this criterion because he is a member of the MMA- and trains with many of the other MMA fighters, including a professional MMA fighter, at the On motion, the petitioner has submitted no additional evidence in support of this criterion. As such, he has not shown that a motion to reopen is warranted as relating to this criterion. In addition, on motion, the petitioner has not specifically stated that we erred in our previous decision as relating to this criterion, or shown that our previous decision was based on an incorrect application of law or USCIS policy. *See* 8 C.F.R. § 103.5(a)(3). As such, he has not shown that a motion to reconsider would be warranted as relating to this criterion.

In the alternative, as we concluded in our previous decision, the petitioner's evidence does not establish that he performs either a leading or a critical role for On motion, the petitioner asserts that he is "an asset to the facility." Even assuming that the petition is an "asset," without evidence that he also performs either a leading or critical role for the academy, as required under the plain language of the criterion, the petitioner has not shown that he meets this

criterion. Reference letters from the Chief Executive Officers and Presidents of the academy do not discuss the petitioner's role in the fighting team or provide details on how his role is either leading or critical to the team or [redacted] As noted in our previous decision, evidence that the petitioner is a skilled and experienced MMA fighter, without more, is not sufficient to show he meets this criterion. Although [redacted] a professional MMA fighter, states that the petitioner is "a huge part to the professional fight team," she does not provide the bases upon which she makes this conclusory statement. Going on record without supporting documentary evidence is not sufficient for the purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165. We 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).

On motion, the petitioner asserts that he "trains with many of the other MMA fighters in the academy" and that "training is critical for an MMA fighter." While we do not contest the importance of training in any athletic endeavor, to establish that he meets this criterion, the petitioner must demonstrate that he performs a leading or critical role for an establishment or organization that has a distinguished reputation. The petitioner's involvement in an MMA fighter's training does not constitutes his role in an establishment or organization. While training as a whole might be critical to MMA fighters, to meet this criterion, the petitioner must show where he is in the hierarchy of the academy or the impact he has had on the academy. Evidence that he trains with other MMA fighters, without more, does not show that he meets this criterion. Although the reference letters state that the petitioner is a skilled and experienced MMA fighter who has also helped in the training of other MMA fighters, they do not show that the petitioner, as an MMA fighter, has performed a leading or critical role for [redacted] or its fighting team.

Furthermore, we concluded in our previous decision, which the petitioner has not challenged on motion, the evidence is insufficient to show that the [redacted] or its fighting team constitutes an organization or establishment that has a distinguished reputation. The evidence submitted to show [redacted] or its fighting team's reputation is from individuals associated with the training facilities and team. Such self-promotional evidence has limited evidentiary value. *See Braga*, 2007 WL 9229758 at *6-7.

Finally, in our previous decision, we questioned the credibility and reliability of two of the petitioner's reference letters, because they contain identical language or virtually the same language when describing the petitioner's achievements and abilities, which suggest that the language in the letters is not the authors' own. *Cf. Surinder Singh v. Board of Immigration Appeals,* 438 F.3d 145, 148 (2d Cir. 2006) (upholding an immigration judge's adverse credibility determination in asylum proceedings based in part on the similarity of some of the affidavits); *Mei Chai Ye v. United States Dep't of Justice*, 489 F.3d 517, 519 (2d Cir. 2007) (concluding that an immigration judge may reasonably infer that when an asylum applicant submits strikingly similar affidavits, the applicant is the common source). On motion, the petitioner has not addressed our concerns or submitted evidence in support of the credibility and reliability of his references.

Accordingly, the petitioner has not presented evidence that he has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. The petitioner has not met this criterion. 8 C.F.R. § 204.5(h)(3)(viii).

II. Conclusion

In most administrative immigration proceedings, the petitioner must prove by a preponderance of the evidence that he or she is eligible for the benefit sought. *Matter of Chawathe*, 25 I&N Dec. 369 (AAO 2010). The truth is to be determined not by the quantity of evidence alone but by its quality. *Id.* at 376. In this case, the petitioner has not shown by a preponderance of the evidence that he is eligible for the exclusive classification sought.

The petitioner has not shown that his motion should be granted, because he has not submitted a statement on motion indicating if the validity of our October 29, 2014 unfavorable decision has been or is the subject of any judicial proceeding. *See* 8 C.F.R. § 103.5(a)(4). In the alternative, although the petitioner has submitted new evidence in support of a motion to reopen, he has not shown that he meets the eligibility for the classification sough. Therefore, even if we granted his motion to reopen, we would affirm our previous decision denying his petition. *See* 8 C.F.R. § 103.5(a)(2). Had the petitioner also intended the instant motion to be a motion to reconsider, we would dismiss the motion to reconsider, because he has not stated any valid reason for reconsideration, nor has he sufficiently supported any valid reason for reconsideration with pertinent legal precedent or other legal authority establishing that our October 29, 2014 decision was based on an incorrect application of law or USCIS policy. *See* 8 C.F.R. § 103.5(a)(3).

The burden of proof in visa petition proceedings 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 motion to reopen will be dismissed. Had the petitioner also intended to file a motion to reconsider, we would dismiss that motion.

ORDER: The motion is dismissed, our October 29, 2014 decision is affirmed, and the petition remains denied.