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U.S. Citizenship
and Immigration
Services

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FILE: LIN 04 144 52671 Office: NEBRASKA SERVICE CENTER Date: JUN 14 2007

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:

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.

Maura Deardrick

for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center. The director reopened the matter on the petitioner's motion, and denied the petition again. The matter is now before the Administrative Appeals Office on appeal. The appeal will be sustained and the petition will be approved.¹

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. The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

On appeal, counsel argues that the petitioner's evidence satisfies at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3).

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 or her field of expertise are set forth in the regulation at 8 C.F.R. § 204.5(h)(3):

Initial evidence: A petition for an alien of extraordinary ability must be accompanied by evidence that the alien has sustained national or international acclaim and that his or her achievements have been

¹ A second appeal filed by the petitioner, relating to another Form I-140 petition filed by him on March 7, 2006 (LIN0611351230), was sustained by the AAO. Thus, the petitioner is currently the beneficiary of another approved Form I-140 petition filed pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act.

recognized in the field of expertise. Such evidence shall include evidence of a one-time achievement (that is, a major, international recognized award), or at least three of the following:

- (i) Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor;
- (ii) 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;
- (iii) 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;
- (iv) 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;
- (v) Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field;
- (vi) Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media;
- (vii) Evidence of the display of the alien's work in the field at artistic exhibitions or showcases;
- (viii) Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation;
- (ix) Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field; or
- (x) Evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales.

This petition, filed on April 22, 2004, seeks to classify the petitioner as an alien with extraordinary ability as a gymnastics coach. At the time of filing, the petitioner was employed by Swiss Turners Gymnastics Academy in West Allis, Wisconsin, where he has worked since 2000. A February 23, 2004 letter of support from [REDACTED]

Director and Head Team Coach, Swiss Turners Gymnastic Academy, states:

[The petitioner] has been coaching elite athletes who have competed very successfully in international competitions such as the World Championships, the Senior Pacific Alliance Championships, and the Olympic Games. These competitions are of the very highest caliber in the world and to be successful Swiss Turners requires its world class gymnasts to be coached by individuals who have coached at the highest international levels.

In his stint at Swiss Turner, [the petitioner] coached ██████████ to the Gold Medal for the all-around and the floor exercise at the 2003 World Championships. This is a very impressive and rare feat as no other American male gymnast had ever won the gold medal for all-around in the World Championships before ██████████ ██████████'s success can be attributed to the coaching [the petitioner] provided him.

A December 26, 2005 letter from ██████████ Senior Men's National Team Coordinator, USA Gymnastics, states:

As the Senior National Team Coordinator for all of men's gymnastics in the United States I work closely with all of our top athletes and their coaches. Moreover, I am in a unique position in the gymnastics world to offer an unbiased expert opinion as to what would qualify a coach to be an individual of extraordinary ability in his field.

In the United States we have tens of thousands of male gymnasts. Of that vast pool only 30 make our Junior National Team each year and only 14 make our Senior National Team. From that pool we select only six athletes to compete on our World Championships or Olympic Teams each year. Of that group we have had only four male gymnasts win individual World or Olympic Medals in the past 20 years ██████████ won the Gold Medal on high bar at the 1992 Olympics, ██████████ won the Silver Medal on parallel bars at the 1996 Olympics, ██████████ won the Gold Medal on the parallel bars at the 2001 World Championships and finally ██████████ won the Bronze Medal on floor exercise at the 2002 World Championships, ██████████ also won the Gold Medal in the All-Around and on the floor exercise at the 2003 World Championships, and he won the Gold Medal in the All-Around and the Silver Medal on the high bar at the 2004 Olympic Games in Athens. So of all the individual World Championship and Olympic medals won in the last 20 years, ██████████ has won more than 60% of them. In fact ██████████ is our most successful American male gymnast of all time. He is the only American male gymnast to ever win the World and Olympic All-Around Gold Medals.

As my picture portrays, creating a gymnast of ██████████ success is a phenomenal accomplishment. His incredible development was a team effort, due primarily to the dedicated work of his two coaches, ██████████ and [the petitioner]. . . . [The petitioner] came to America with outstanding credentials having been an Olympic Team member for the country of Belarus in 1996 and then a Sr. National Team Assistant Coach first for the men's team from 1996-1998 and then for the women's team from 1998-2000. His experience of not only competing at the world's highest levels but also, in helping to develop World and Olympic competitors for Belarus gave him an expertise that was to prove invaluable in ██████████ and ██████████'s development. Up to that period neither ██████████ nor ██████████ had won any World or Olympic medals. While the line between competing well at the World Championships or Olympics and winning a medal can be a separation of only a few hundredths of a point, the level of work and expertise to eclipse that difference has seldom been attained in this country. After [the petitioner] joined their coaching staff the change and advancement in ██████████ and ██████████'s gymnastics was not only dramatic, but also historic.

An April 30, 2001 letter from [REDACTED] whose accomplishments are described above, and [REDACTED] 2000 and 2004 U.S. Olympic Team Member and Medalist, 2002 and 2003 Floor Exercise U.S. National Champion, and 2003 World Artistic Gymnastics Team Silver Medalist, states: “[The petitioner] coached us for several months before the Olympic Games in September of 2000 and helped us get there and succeed there.” A subsequent letter from [REDACTED] and [REDACTED] dated December 23, 2005, states: “From 2001 through 2003 [the petitioner] continued to participate in our coaching I, [REDACTED] was the 2003 World Champion and 2004 Olympic Champion in the All-Around event in Gymnastics (among other titles). [The petitioner] was a part of my victories and can . . . continue to help other U.S. gymnasts”

In addition to the preceding letters of support, the record includes specific documentary evidence that the petitioner has satisfied the criteria at 8 C.F.R. § 204.5(h)(3)(i), (ii), and (viii).

In review, while not all of counsel’s assertions on appeal are persuasive and some of the concerns raised by the director in the decisions dated December 5, 2005 and March 1, 2006 are valid, we find that the evidence satisfactorily meets at least three of the regulatory criteria required for classification as an alien of extraordinary ability. Pursuant to the statute and regulations as they are currently constituted, the petitioner qualifies for the classification sought. The totality of the evidence establishes the petitioner’s sustained national and international acclaim and extraordinary ability as a gymnastics coach. The petitioner has also established that he seeks to continue working in the same field in the United States and that his entry into the United States will substantially benefit prospectively the United States. Therefore, the petitioner has overcome the stated grounds for denial and thereby established eligibility for the benefits sought under section 203 of the Act.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has sustained that burden. Accordingly, the decision of the director denying the petition will be withdrawn and the petition will be approved.

ORDER: The decision of the director is withdrawn. The appeal is sustained and the petition is approved.