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U.S. Department of Justice
Immigration and Naturalization Service

~~Identifying cases referred to
prevent clearly inadmissible
admission of persons of priority~~

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[Redacted]

File: [Redacted] Office: Nebraska Service Center

Date: APR 29 2002

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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)

IN BEHALF OF PETITIONER:

[Redacted]

PUBLIC COPY

INSTRUCTIONS:

This is the decision 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Associate Commissioner for Examinations 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 athletics. 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.

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

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(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 petitioner seeks employment as a coach for the Chicago White Sox major league baseball team. Counsel deems the petitioner "the greatest baseball player in Korean history." The petitioner was a catcher for the Samsung Lions from 1982 to 1997, with a career batting average of .296, after which time he retired as a player and began coaching. The petitioner has submitted evidence from various sources, including letters from top officials such as the commissioner of the Korean Baseball Organization, to support the claim that the petitioner is among Korea's most celebrated baseball players.

The director instructed the petitioner to submit documentation to show that the petitioner has earned sustained acclaim not only as a baseball player, but also as a coach. In response, counsel admits "[w]e do not have such evidence," but asserts that submission of such evidence should

not be necessary because the petitioner "is coming to the United States 'to continue work in the area of extraordinary ability.'" To demonstrate that the petitioner's coaching work is a continuation of the petitioner's past work rather than a new career, the petitioner submits letters from the manager and the pitcher of the Chicago White Sox. [REDACTED] states "[p]layers know what it is like out there, so they make the best coaches. . . . You must understand the game to coach it." [REDACTED] states "[t]he majority of coaches in the major leagues are former major league baseball players. . . . [T]he best training for this job is as an accomplished baseball player."

The director denied the petition, acknowledging the petitioner's enviable career as a baseball player but finding that the record does not establish that the petitioner has earned comparable acclaim as a coach. The director observed that, as an ex-player, the petitioner may be well suited for a coaching career, but the visa classification demands a much higher threshold than simply demonstrating that one is well equipped for a given occupation. The director also noted that the petitioner's contract with the Chicago White Sox is a temporary one, for which a nonimmigrant visa would be sufficient. The director concluded that the petitioner has not established that he "is coming to the United States to continue work in the area of expertise in a permanent position."

On appeal, counsel states that a brief is forthcoming within 30 days. To date, eleven months after the filing of the appeal, the record contains no further submission and a decision shall be made based on the record as it now stands.

Counsel states that the petitioner "is clearly one who has risen to the top of his field of endeavor (baseball) through sustained national (in Korea) acclaim [The petitioner] does not claim and has never claimed to be a coach who has risen to the top of the field. He argues that he is a baseball player who rose to the top of his field." Counsel contends that the petitioner's "involvement in the sport AT THE MAJOR LEAGUE LEVEL is sufficient to establish that he will continue work in the area of extraordinary ability." While the petitioner will still be working in baseball, broadly defined, he will not be working as a player, which is the area in which he demonstrated extraordinary ability.

Counsel asserts that the director "totally ignored [the petitioner's] evidence designed to demonstrate that a baseball coach at the major league level requires the skill and experience of a top baseball player." While it may be true that a former player is especially well suited to work as a coach, it does not imply extraordinary ability as a coach, nor does it demonstrate existing acclaim. Counsel readily admits that the petitioner does not claim extraordinary ability as a coach, and there is no evidence that the petitioner had any prior coaching experience at all when he filed the petition in April 2000, the same month he began coaching the Chicago White Sox.

The purpose of the immigrant visa classification at issue is to facilitate the admission of aliens who will benefit the United States through their extraordinary ability. The classification is not intended simply as a reward for past achievements in an area in which a given alien no longer works. In this instance, we have no indication that the petitioner has had any coaching experience at all, let alone that he has earned acclaim as an extraordinary coach. The subjective

assurance from two members of the White Sox organization that the petitioner's past success as a player bodes well for his future work as a coach does not satisfy the statutory demand for "extensive documentation" of sustained national or international acclaim.

Counsel has emphasized that the petitioner deserves special consideration because he will be coaching "AT THE MAJOR LEAGUE LEVEL" (counsel's emphasis). We note supplementary information at 56 Fed. Reg. 60899 (November 29, 1991), which states:

The Service disagrees that all athletes performing at the major league level should automatically meet the "extraordinary ability" standard. . . . A blanket rule for all major league athletes would contravene Congress' intent to reserve this category to "that small percentage of individuals who have risen to the very top of their field of endeavor."

If playing in the major leagues is not inherently demonstrative of extraordinary ability, then arguably coaching at the major league level likewise falls short, especially in an instance such as this where it is not clear that the petitioner has any coaching experience at all.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of the field of endeavor. Review of the record, however, does not establish that the petitioner has achieved sustained national or international acclaim or to be within the small percentage at the very top of the field of baseball coaching. The evidence indicates that the petitioner earned national acclaim as a baseball player, but his career as a player has ended, while he entered the field of coaching so close to the filing date that there was simply no opportunity for the petitioner to establish any reputation as a coach, let alone earn sustained national or international acclaim. 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 visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.