



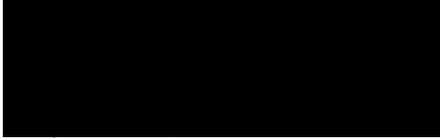
B2

U.S. Department of Justice

Immigration and Naturalization Service

Identification data deleted to prevent clearly unwarranted invasion of personal privacy

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



File: SRC 00 118 52105 Office: Texas Service Center Date: 1 MAR 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

[Handwritten Signature]

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be sustained and the petition will be approved.

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 the classification.

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).

An alien, or any person on behalf of the alien, may file for classification under section 203(b)(1)(A) of the Act as an alien of extraordinary ability in science, the arts, education, business, or athletics. Neither an offer of employment nor a labor certification is required for this classification.

The specific requirements for supporting documents to establish that an alien has achieved sustained national or international acclaim are set forth in the Service regulations at 8 C.F.R. 204.5(h)(3). The relevant criteria will be discussed below. It should be reiterated, however, that the petitioner must show that the beneficiary has sustained national or international acclaim at the very top level.

The petitioner is a trainer, rider and coach in the equestrian sport of reining which, according to the record, was a demonstration event at the 2000 Olympics and is under consideration as a competitive event. The record indicates that the petitioner is a self-employed trainer and one of the top fifty riders in the National Reining Horse Association ("NRHA").

The regulation at 8 C.F.R. 204.5(h)(3) presents ten criteria for establishing sustained national or international acclaim, and requires that an alien must meet at least three of those criteria unless the alien has received a major, internationally recognized award. Review of the evidence of record establishes that the petitioner has in fact met three of the necessary 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 has documented that he ranks highly in terms of prize money won in various competitions, including some of the very top national competitions sanctioned by the NRHA. Witnesses also assert that the petitioner's students are highly ranked in their respective classes.

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.

The petitioner submits copies of several articles, mostly from NRHA publications. Most significantly, the petitioner is the principal subject of a May 1996 article in the NRHA Supplement. Carrying less weight are other articles which mention but do not focus on the petitioner. While the petitioner has not attracted a level of media attention comparable to, for instance, Michael Jordan, the petitioner's sport is considerably more obscure than a "major" sport such as basketball and therefore we would not expect a comparable degree of media attention. The content of the articles is also important, and these articles indicate that the petitioner is a consistently successful rider and trainer.

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.

Top NRHA officials indicate that the petitioner has officiated as a judge at major NRHA events including the NRHA Derby, which is one of the NRHA's largest sanctioned competitions.

Much of the petitioner's initial submission consists not of objective documentation that fits into one of the above categories, but rather letters from witnesses. NRHA president Frank L. Constantini, Jr., states:

[The petitioner] is one of the leading reining horse trainers in the world. His skills have enabled him to win numerous events approved by the National Reining Horse Association, the national governing body for the sport.

His expertise as a showman and horseman is second to none. [The petitioner] has also established himself as an outstanding coach of non-professional competitors. One of the non-pro owners riding with [the petitioner] is currently ranked fifth in the world in the year-end standings of her division. . . .

[The petitioner] has officiated at most of the major events sanctioned by the National Reining Horse Association.

Jean-Pierre Paquet, president of the Quebec Quarter Horse Association, states that the petitioner "is our most renown equine personality; his achievement as a trainer and breeder put him on top of the list." Mr. Paquet asserts that the petitioner has earned "a world wide reputation."

Trainer Roger Brazeau, former NRHA world champion, states that the petitioner "is a consistent finalist in NRHA events and is respected and sought after nationally and internationally for his skills and expertise as a trainer and a judge."

Alain Pominville, executive director of Reining Canada, states that his organization selected the petitioner as a member of the Reining Canada National Team. He states:

In order to select riders representing Canada at the USET Festival of Champions National Cup in Gladstone New Jersey in June 2000, we compiled the results of all Canadian riders in the world for the [years] 1997 and 1998.

[The petitioner] stood out as being the 6th Canadian money earner in the world.

Other witnesses include horse breeders, riders coached by the petitioner, and owners of horses trained by the petitioner. These individuals attest to the petitioner's skill in nurturing winning performances in horses and riders alike.

The director instructed the petitioner to submit a list of the top five to ten figures in the petitioner's field, with a comparison between them and the petitioner. The director also informed the petitioner "you have already complied with the [regulatory]

criteria" and requested further evidence, without explaining how the initial evidence was inadequate. The director also requested evidence that the petitioner intends to continue working in the field.

In response, the petitioner submits additional letters and documents. Counsel notes that, since the filing of the petition, the petitioner's ranking in the NRHA (all ages and divisions) has climbed from 39th to 5th. Other documents show that the petitioner was a member of Team Canada which placed second in an international competition, the first Nations Cup for Reining, in 2000. Several witnesses express an interest in employing the petitioner. The evidence amply establishes that the petitioner remains active in his sport and apparently intends to continue working in the field. The letters submitted in response to the director's notice are from leaders in the petitioner's field (such as the top two ranking riders), who attest that the petitioner is nationally and internationally recognized as a top figure in the field of reining.

The director denied the petition, acknowledging the petitioner's "impressive career as a horseman" but stating that the evidence is insufficient to establish extraordinary ability. For example, the director stated that "the record contains no independent background information about any of [the petitioner's] prizes."

On appeal, the petitioner states that previous submissions did not adequately demonstrate "[t]he stature of the Sport of Reining" or the petitioner's place in that sport. The petitioner asserts that the NRHA is an international organization and that "NRHA events are always International." A list of NRHA affiliates, taken from NRHA Reiner, shows that the organization's affiliates are concentrated in the United States and Canada, but there are others in several countries in South America, Europe, and Asia. As of 2000, the NRHA had roughly 10,000 members, over 1,700 of which were outside the United States (mostly in Canada, Germany, Italy and the Netherlands).

Documents submitted on appeal show that events judged by the petitioner feature competitors from throughout the United States, indicating that the events are national rather than regional in character. The documents also indicate that the NRHA Derby, which the petitioner has judged, is the NRHA's second-biggest event in terms of purse size, and third in terms of number of entrants. These documents indicate that the petitioner continues to be one of the NRHA's top money earners.

With regard to the director's observation that the record lacks "independent background information," the record shows that the NRHA is the national governing body for the petitioner's sport, and therefore it is difficult to imagine a more authoritative source of statistical information about that sport. It is highly significant

that top NRHA officials, top NRHA competitors, and NRHA members from throughout the United States have offered strong words of praise in support of the petition. While reining does not enjoy the overall popularity or recognition of a major sport such as baseball or football, it is nevertheless a recognized sport with a national governing body and a documented international following which, while comparatively small, appears to be growing at an impressive rate. The petitioner's consistently high ranking in this sport, along with his work as a judge and other factors documented in the record, are sufficient to establish the petitioner's eligibility for the classification sought.

In review, while not all of the petitioner's evidence carries the weight imputed to it by counsel and the petitioner, the petitioner has established that he has been recognized as an alien of extraordinary ability who has achieved sustained national acclaim and whose achievements have been recognized at the top levels of his field of expertise. The petitioner has established that he seeks to continue working in the same field in the United States. Therefore, the petitioner has 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.

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