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U.S. Department of Justice  
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
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ULLB, 3rd Floor  
Washington, D.C. 20536



15 OCT 2002

File: EAC 01 110 51923 Office: VERMONT SERVICE CENTER Date:

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:



**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

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, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner seeks to classify the beneficiary 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 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 Service 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 the beneficiary has sustained national or international acclaim at the very top level.

The petitioner is a non-profit community organization, and seeks to employ the beneficiary as a gymnastics coach. John Patrick Morrissey, executive director of the petitioning entity, offers an introductory letter. 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 does not specify

which of the criteria it seeks to address, but the materials submitted appear to conform most closely to 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 indicates that, as a competitive gymnast in his own right, the beneficiary placed first or second in several national and international competitions between 1981 and 1987. The only evidence cited in support of this claim is "Exhibit 3," which is the beneficiary's resume. The beneficiary's resume amounts to a list of claims, rather than documentation to support those claims. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. See Matter of Treasure Craft of California, 14 I&N Dec. 190 (Reg. Comm. 1972).

A certificate from the U.S.S.R. State Committee of Physical Culture and Sports, dated March 27, 1987, certifies the beneficiary as a "Master of Sport in U.S.S.R. Gymnastics." Mr. Morrissey states "[t]his is the highest title awarded to athletes in the former Soviet Union," but once again there is no corroboration of this claim. The certificate itself contains no information to confirm the petitioner's claim.

Regarding the beneficiary's work as a coach, Mr. Morrissey states:

From 1988 to 1996 he was employed by the prestigious Sportclub Fakel in Russia as the Girl's Competitive Team Coach. Under [the beneficiary's] tutelage this prestigious training facility produced many gymnastics champions who won numerous awards.

During the eight (8) years that [the beneficiary] served as Girl's Competitive Team Coach, he developed six (6) gymnasts to the title Master of Sport. Among his numerous outstanding gymnasts, two include:

- **Elene Fazlieva.** Ms. Fazlieva was the overall Champion of Russia for 1989, 1990, 1991, 1992 and 1993. She was the Vault Champion of the International Meet in the United States in 1993 and was a member of the Russian National Team.
- **Janna Frick.** Ms. Frick was Junior Champion of the former Soviet Union in 1988 and 1989. She was the Junior Champion of Europe in 1988.

The petitioner submits similarly-worded statements (identified as "affidavits" but with no oath or affirmation) from the above two athletes. Ms. Frick and Ms. Fazlieva assert that they won the titles listed above, and that the beneficiary "is well known in Russia for his extraordinary ability in the development of young gymnasts. He is also recognized as a gymnastics judge."

Regarding the beneficiary's work in the U.S., Mr. Morrissey states:

In June 1996, [the beneficiary began] . . . to work for International Gold Gymnastics in Tallahassee, Florida as a coach (**Exhibit 7**). There, he coached the State Floor Champion for the State of Florida. He remained in that position until June 1997, at which time he accepted a position as gymnastics coach with Sun Country Sports Center located in Gainesville, Florida (**Exhibit 8**). During his tenure with Sun Country Sports Center, some of [the beneficiary's] coaching achievements included:

- 2<sup>nd</sup> Place Vault, State Competition, 1999
- Level VII, IV and VI Teams won Invitational Competitions, 1998.

Exhibits 7 and 8, cited above, are copies of approval notices showing that the beneficiary had received nonimmigrant visas to work at International Gold Gymnastics and Sun Country Sports Center. The exhibits offer no first-hand corroboration as to the beneficiary's accomplishments at either site.

*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.*

Mr. Morrissey states that the beneficiary served "as a National Judge of Men's Competitive Gymnastics in Russia," but cites no documentary support for this claim. The record contains no documentation from any entity that has engaged the beneficiary's services as a judge. Vague witness assertions that the beneficiary has acted as a judge at unspecified events cannot suffice to fulfill this criterion.

Beyond the above criteria, the petitioner has submitted several witness letters.

Dmitri Bilozertchev, identified as "Absolute World Champion" and "Olympic Champion," wrote his letter in early 1998 to support a nonimmigrant petition on the beneficiary's behalf. Mr. Bilozertchev offers general praise for the beneficiary's "exceptional gymnastic coaching ability," and asserts that the beneficiary "will prove to be an asset to the development of the quality of gymnastics provided to the United States," but he provides no specific indication that the beneficiary has earned national or international acclaim. Mr. Bilozertchev adds that he has "coached against him in several competitions," and states that the beneficiary "has been a complete professional" but does not indicate the level of those competitions or the frequency with which the beneficiary's athletes actually won those competitions. Other witnesses offer similar vague endorsements of the beneficiary's "distinguished talents and professional merits" without providing any useful details. These witnesses have worked with the petitioner closely in the U.S. and Russia. The petitioner submits copies of news articles and other documentation relating to the work of these witnesses, but these documents serve only to highlight the absence of similar documentation regarding the beneficiary himself. Vague assertions from colleagues to the effect that the beneficiary is an asset to the sport of gymnastics do not establish acclaim, regardless of the reputations of those providing the assertions.

Some of the witnesses assert that the beneficiary was a coach of the Soviet National Team. The beneficiary was clearly not the only coach for that team; the record identifies the head coach as someone other than the beneficiary, and the witnesses consistently refer to the beneficiary as "a coach" rather than "the coach" of the team. The record does not establish how many coaches the national team employed, nor does it show that the beneficiary has held any national-level coaching position in the U.S. or elsewhere at any time after the collapse of the Soviet Union in 1991.

Becky Riti, international relations coordinator for the U.S. Gymnastics Federation, offers the most detailed letter. Ms. Riti states "[the beneficiary] is known as a former gymnast and coach at the national and international level. . . . Gymnasts coached by [the beneficiary] have competed at the YMCA national level, and the regional and state levels of the USA Gymnastics program." Ms. Riti also indicates that the U.S. Gymnastics Federation "is the exclusive governing body for the sport of gymnastics in the United States" and "the only gymnastics organization in the United States which is officially recognized by the International Gymnastics Federation." These comments indicate that competitions at "the YMCA national level" are private events, not recognized outside of the YMCA by any gymnastics governing body.

The director instructed the petitioner to submit further documentation. In response, the petitioner has submitted further letters and other materials. Some of these materials show that the beneficiary's pupils won "Junior" and "Children's" events. The petitioner submits photographs of medals, for which the record provides no evidence of their significance. Other materials focus on a claimed shortage of qualified gymnastics coaches. A worker shortage can be addressed in lesser classifications through the labor certification process; such a shortage is irrelevant to the issue of whether a given coach has earned sustained acclaim not only among those with whom he works, but at a national or international level. The submission also includes materials relating to competitions that took place after the petition's February 2001 filing date, which cannot retroactively establish that the beneficiary was already eligible before those events took place. See Matter of Katigbak, 14 I&N Dec. 45 (Reg. Comm. 1971), in which the Service held that beneficiaries seeking employment-based immigrant classification must possess the necessary qualifications as of the filing date of the visa petition. The petitioner has submitted articles from local newspapers about some of his pupils, but the record does not establish national or international media coverage of his work.

The director denied the petition, stating that the record does not establish that the beneficiary's reputation as a coach has reached and remained at a national or international level. On appeal, counsel argues that the petitioner has met his burden of proof, and that the director "completely ignored and/or failed to properly consider credible testimonials provided by internationally acclaimed and recognized gymnastics coaches and from the highest U.S. gymnastics governing organization affirming the beneficiary's extraordinary abilities and accomplishments." As we have noted, many of these testimonials consist only of vague attestations of support. Some of the witnesses have provided background materials about themselves, and these materials show accomplishments that eclipse the beneficiary's own achievements. We note that Becky Riti's letter on behalf of the beneficiary states that the beneficiary "is known as a former gymnast and

coach," whereas her letter on behalf of another witness, Alexandre Alexandrov, states that Mr. Alexandrov is "extremely well known." The events at which Mr. Alexandrov participated include Olympic Games and world championships.

The statute calls for "extensive documentation" of sustained acclaim, a requirement reflected in the regulation at 8 C.F.R. 204.5(h)(3) that calls for several different types of documentary evidence. In this instance, the record contains minimal documentation, instead relying on witnesses close to the beneficiary, who make assertions for which first-hand evidence ought to be readily available. Letters, from witnesses selected by the petitioner, can fulfill a valuable subordinate role but by themselves they do not represent "extensive documentation." Several key assertions are either vague or uncorroborated. For instance, the record is silent as to the specific events where the beneficiary purportedly served as a judge, and the assertion that the "Master of Sport" certification is "the highest designation" awarded to athletes means little without some indication as to the requirements for such certification and the quantity of such certifications issued. The beneficiary's certification is in the form of what appears to be a small identification card with a six-digit serial number. "Highest" does not necessarily mean "rare," and the burden is on the petitioner to establish the significance of the beneficiary's honors and accomplishments. The director did not act in an arbitrary or capricious manner by failing to accept at face value counsel's representations regarding the evidence of record.

The record indicates that the beneficiary earned some recognition as a coach in the Soviet Union while that nation still existed. The petitioner has not shown that this reputation has been sustained, as the statute and regulations require. The record does not indicate that, in the over four years between his entry into the U.S. and the filing of the petition, the beneficiary had coached his students beyond the regional level in any competition recognized by the official governing body (rather than the parent organization of his own employer).

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 beneficiary has distinguished himself as a gymnastics coach 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 a 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 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.