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U.S. Department of Justice
Immigration and Naturalization Service

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



File: EAC 01 144 51873 Office: Vermont Service Center Date: 16 SEP 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, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a non-profit organization that seeks to promote interest in soccer among youths in urban areas. It 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 that the beneficiary has earned 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 --

(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.

This petition, filed on March 29, 2001, seeks to classify the beneficiary as an alien with extraordinary ability as a soccer coach. The petitioner has submitted documentation pertaining to the beneficiary's career as a goal-keeper for Pakistani national teams in the 1980s and early 1990s. The documentation submitted in support of the petition reflects that the beneficiary last competed in 1995. There is no evidence that the beneficiary, age thirty-nine at the time of filing,

remains consistently active as a national competitor in his own right. Furthermore, 8 C.F.R. 204.5(h) requires the beneficiary to “continue work in the area of expertise.” The petitioner in this case seeks to employ the beneficiary not as an extraordinary soccer athlete, but, rather, as an extraordinary coach. As demonstrated by the evidence provided and indicated under Part 6 of the I-140 petition, athletic competition is clearly not the field in which the beneficiary seeks to continue working.

While related, coaching and playing are different areas of expertise that require somewhat overlapping but nevertheless very distinct skills. Thus, competitive athletics and coaching are not the same area of expertise. As such, the petitioner’s evidence demonstrating the beneficiary’s ability as a soccer player, by itself, cannot demonstrate the beneficiary’s eligibility for the classification sought. This decision will consider whether the petitioner has established the beneficiary’s national or international acclaim as a soccer coach. We will also examine whether the beneficiary has sustained his previous acclaim as an athlete through his coaching.

The record reflects that the beneficiary entered the United States in 1998. Therefore, when considering whether the beneficiary has earned sustained acclaim, it is entirely appropriate to examine his reputation in the United States as well as in his native Pakistan.

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.

On September 27, 2001, the director issued a request for evidence informing the petitioner of the deficiencies in the record and requesting that the petitioner submit evidence related to the ten regulatory criteria. The petitioner’s response, however, did not specify which of the ten criteria that the beneficiary seeks to satisfy. The petitioner has submitted evidence that appears 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 submits a listing of twenty-five soccer tournaments that the beneficiary is alleged to have participated in from 1980 to 1993. The petitioner’s listing indicates that at several of the tournaments the beneficiary was declared the “best goal-keeper” and that the beneficiary’s teams won various medals and trophies. A letter from Ghulam Abbas Baloch, Secretary General of the Pakistani Football Federation, states only the following:

Certified that [the beneficiary] was a bona fide player of [the] Pakistan National Football Team. [The beneficiary] has played various tournaments at [the] national level as a goal-keeper from 1993 to 1995 and declared [sic] one of the best goal-keepers and players for the

season. At various occasions he has been awarded man of the match and best player of the tournament in national level tournaments.

The petitioner offers no contemporaneous first-hand evidence of the beneficiary's individual receipt of any prizes or awards. Furthermore, there is no direct evidence showing that the beneficiary's soccer teams received any specific awards. It must be emphasized that section 203(b)(1)(A)(i) of the Act requires extensive documentation of sustained national or international acclaim. The petitioner cannot demonstrate the beneficiary's eligibility under this criterion by submitting a witness letter that offers only brief, vague information about the beneficiary's athletic recognition.

Notwithstanding the above, even if the petitioner sought to classify the beneficiary as an extraordinary soccer player, 8 C.F.R. 204.5(h) requires the beneficiary to "continue work in the area of expertise." In this case, the petitioner intends to employ the beneficiary as a coach in the United States. Therefore, the beneficiary's alleged receipt of various awards as a soccer player is not the only factor to be considered in determining his eligibility under the classification sought. It is not clear that significant awards exist for soccer coaches. Nationally or internationally recognized prizes or awards won by a coach's teams, however, can be considered comparable evidence for this criterion under 8 C.F.R. 204.5(h)(4).

The petitioner submits additional letters from officials of the Islamabad Football Association and Pakistan Telecommunication Corporation. The letter from Mian Aslam Saif, Chairman of the Islamabad Football Association, states, in its entirety:

It is certified that [the beneficiary] has been nominated as coach to Islamabad Football Association Football Team for participating [in the] Inter-District, Inter-Divisional, Provincial and National Football Championship for 1998. Due to his skillful training/coaching the I.F.A. Football Team achieved all the targets in the above-mentioned tournaments played during the year 1998. He is one of the best coach and asset for Islamabad Football Association [sic].

The letter from Sharafat Hussain Bukhari, Central Secretary of Sports and Welfare, Headquarters, Pakistan Telecommunication Corporation ("PTC"), states, in its entirety:

This is to certify that [the beneficiary] has worked with [the] PTC Football Team as a coach for the period from 10th January, 1996 to 15th December, 1997. During his stay with PTC, Islamabad as a coach he rendered excellent services to the team. He gave his full devotion and by the dint of his hard work [the] PTC Football Team showed excellent performance by winning various tournament[s] i.e. Inter-Department, PTC Championship, Pakistan Olympic and National Championship etc.

[The beneficiary] is a born footballer and was just wonderful. We wish him success in his future carrier [sic].

The petitioner offers no direct evidence to support the two witnesses statements regarding the beneficiary's coaching of his soccer teams to tournament victories. The statute, however, calls for "extensive documentation," a demand reflected in the regulatory criteria, which call for a variety of types of evidence. The petitioner cannot demonstrate the beneficiary's eligibility under this classification by submitting witness letters that offer only brief, limited details regarding the tournaments won by the beneficiary's teams. A review of the documentation provided reveals no contemporaneous first-hand evidence of actual awards to establish that teams coached by the beneficiary won national recognition.

Other than a brief listing of the beneficiary's awards provided by the petitioner (which does not constitute evidence) and vague statements from three witnesses selected by the beneficiary, the petitioner has offered no further documentation evincing receipt of national or international soccer awards. The absence of direct evidence documenting the actual receipt of specific national or international awards is a critical omission from the record.

The petitioner provides three "Certificates of Participation" for boys' and girls' local soccer tournaments in 1997. These documents do not constitute national awards in the beneficiary's field of endeavor. They simply reflect the beneficiary's presence at various youth sporting events. The documents offer no meaningful comparison between the beneficiary and the most experienced soccer coaches in the field (such as those who coach at the World Cup level).

This criterion requires documentation establishing that the beneficiary's awards enjoy significant national or international recognition. We note, for example, the absence from the record of national or international media coverage about the beneficiary's receipt of specific prizes and awards. An alien cannot earn acclaim at the national or international level through local or provincial soccer awards. The record contains no evidence of national awards won by teams coached by the beneficiary in the United States. The vague and extremely limited evidence submitted regarding the beneficiary's awards fails to demonstrate the beneficiary's performance as a top Pakistani or international soccer player or coach.

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.

In general, in order for published material to meet this criterion, it must be primarily about the beneficiary and, as stated in the regulations, be printed in professional or major trade publications or other *major media*. To qualify as major media, the publication should have significant national distribution and be published in a predominant language. An alien cannot earn acclaim at the national level from a local publication or from a publication in a language that most of the population cannot comprehend. Some newspapers, such as the *New York Times*, nominally serve

a particular locality but they qualify as major media because of significant national distribution, unlike small local community papers.

The petitioner submits only two articles under this criterion. The first article, dated August 23, 1984 and appearing in the *New Strait Times*, describes the beneficiary's play in the Merdeka Tournament. The article notes: "[The beneficiary] managed to pull off several fine saves despite letting in two goals by Kevin Keegan which gave the Malaysian Tigers a 2-0 win." The article quotes the beneficiary as stating: "Actually, I can't say I'm a professional player although that's all I do for a living at the moment." The article further states that the beneficiary plays for his employer, Heavy Mechanical Complex, in the Rawalpindi League and that the Merdeka Tournament was his "first international experience."

The second article, dated January 6, 1997 and appearing in *The Nation*, contains only three sentences about the beneficiary. The plain wording of the regulation requires the petitioner to submit "published materials about the alien," and articles that barely even mention the alien cannot satisfy the criterion. The main subject of the article is the Ravi Football Club being crowned league champions in the Krackers Football League. There is nothing in the article or the record of evidence indicating that the beneficiary played for or coached the Ravi Football Club. The beneficiary is briefly mentioned as being "the main force behind the championship," not as a player or coach, but, rather, as a league organizer.

It has not been shown that the *New Strait Times* or *The Nation* qualify as major media. The extent of the publications' circulation, a key factor in determining whether they qualify as major media, has not been provided. The petitioner has not demonstrated that the beneficiary has captured sustained attention from major national media such as magazines like *Sports Illustrated*. It is important to note that the beneficiary's career began in the early 1980s. The submission of only two articles from a soccer career spanning over two decades is hardly indicative of sustained national or international acclaim.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

In order to establish that the alien performed a leading or critical role for an organization or establishment with a distinguished reputation, a petitioner must establish the nature of the alien's role within the entire organization or establishment and the reputation of the organization or establishment. Where an alien has a leading or critical role for a section of a distinguished organization or establishment, the petitioner must establish the reputation of that section independent of the organization as a whole. Witness letters indicate that the beneficiary began his coaching career in Pakistan, but the record contains little documentation of the beneficiary's role there or the reputation of the teams he coached. The beneficiary then came to the United States to coach for the petitioner.

The petitioner submits a letter, dated May 15, 1996, from Vice President Al Gore thanking Humanity International for contacting his office and providing information about "Operation Cure America," a program for urban youths. The response letter from Al Gore's office, which is typically issued in reply to a constituent or organizational inquiry, cannot establish the distinguished reputation of the petitioning organization. Furthermore, the beneficiary's specific role within Humanity International has not been described in sufficient detail or shown to be leading or critical.

The petitioner, in this case, seeks to classify the beneficiary as an extraordinary soccer coach. We note that the petitioner has provided little or no substantive evidence to indicate that the beneficiary has performed a leading or critical role in the coaching of national soccer champions or Olympians. The witness letters, from individuals selected by the petitioner, offer little or no information detailing the beneficiary's role as coach and his specific accomplishments. Finally, there is no evidence demonstrating that the beneficiary's coaching of youths in the United States for Humanity International has brought him national or international acclaim.

For the reasons discussed above, the record is ambiguous regarding the beneficiary's acclaim in his native Pakistan, and it contains no evidence that the beneficiary has sustained whatever acclaim he earned in Pakistan since his 1998 arrival in the United States. The statute demands extensive documentation of sustained national or international acclaim. Statements from the petitioner's witnesses, while not without weight, cannot form the cornerstone of a successful claim. Evidence in existence prior to the preparation of the petition carries greater weight than new materials prepared especially for submission with the petition. An individual with sustained national or international acclaim should be able to produce unsolicited materials reflecting that acclaim.

Throughout this proceeding, counsel for the petitioner repeatedly refers to the beneficiary's receipt of nonimmigrant O-1 visa classification. On appeal, counsel mentions evidence provided in support of the approved Form I-129, Petition for a Nonimmigrant Worker, stating: "Apparently, the INS has overlooked this evidence on record... Had [the beneficiary] not had the exceptional and extraordinary ability recognized internationally, he would not be granted the O-1 visa." Counsel, however, does not specify which of the evidence was overlooked or provide the evidence for consideration on appeal. We note that the petitioner, in response to the director's request for evidence (pertaining to the ten regulatory criteria), submitted only copies of documents already provided in support of the initial Form I-140 filing and Service Center correspondence related to the Form I-129 proceeding. The petitioner offered no new additional evidence pertaining to the ten regulatory criteria.

The evidence "on record" in this proceeding does not include the I-129 petition. It should be noted that the adjudication of the instant petition, Form I-140, and the petitioner's Form I-129 are separate and distinct proceedings, each with their own record of evidence. Without the record of proceedings from the nonimmigrant O-1 approval, it cannot be determined whether

that petition was approved in error. Furthermore, we do not agree that a previous determination in a nonimmigrant classification requires an automatic approval in a related immigrant petition regardless of the evidence of record. Each petition must be adjudicated on its own merits based on the evidence submitted to support that particular petition. The petitioner bears the burden of establishing eligibility in each visa petition proceeding. In this proceeding, the petitioner has failed to meet that burden.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim, is one of the small percentage who has risen to the very top of the field of endeavor, and that the alien's entry into the United States will substantially benefit prospectively the United States. The petitioner has failed to demonstrate the beneficiary's receipt of a major internationally recognized award, or that he meets at least three of the criteria that must be satisfied to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability.

A review of the record does not establish that the beneficiary has distinguished himself as a soccer 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 his achievements set him significantly above other coaches in the sport of soccer. Therefore, the petitioner has not established the beneficiary's 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. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.