

U.S. Department of Homeland Security

Citizenship and Immigration Services

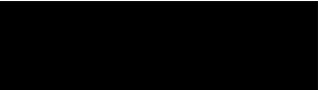
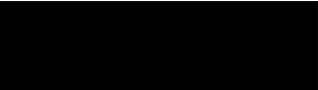
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ADMINISTRATIVE APPEALS OFFICE
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Washington, D.C. 20536



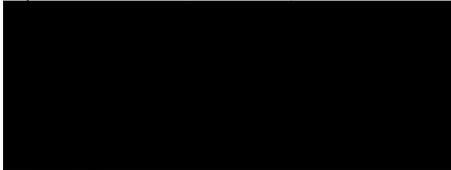
File:  Office: CALIFORNIA SERVICE CENTER

Date: NOV 19 2003

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:



PUBLIC COPY

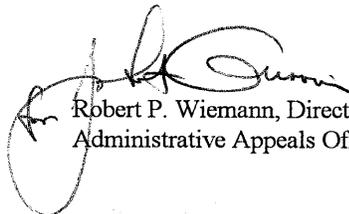
INSTRUCTIONS:

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 Citizenship and Immigration Services (CIS) 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.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office 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 --

- (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 pertinent regulations 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 he has sustained national or international acclaim at the very top level.

The petitioner has played as a forward for Neftochimic¹, also known as the Sheikhs, a Bulgarian professional soccer team. In a letter submitted with the initial filing, he states "I will be contacting a number of professional soccer clubs in the U.S., which should be glad to invite me to play." He notes his acquaintance with Hristo Stoitchkov who is "currently playing for the Chicago Fire" professional soccer team. The petitioner states that, upon the conclusion of his career as a soccer player, he will become a coach.

¹ Spellings of this word vary, owing to differences in transliteration from the Cyrillic alphabet.

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 has submitted evidence which, he claims, meets 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.

Counsel states that the petitioner "played 4 games on the youth national team of Bulgaria" during the 1999-2000 season, and counsel contends "having been invited to play on such team should be regarded as . . . an award for excellence." Counsel then observes that "[d]uring the 1999-2000 season, [the petitioner] scored 17(!) goals . . . some of which were crucial and acknowledged by soccer experts." Counsel does not indicate that the petitioner received any award for this achievement, nor does counsel explain how scoring goals in soccer amounts to a prize or award, regardless of whether the number of goals scored exceeds some arbitrary number.

The regulation at 8 C.F.R. § 204.5(h)(4) states that, if the ten criteria outlined in 8 C.F.R. § 204.5(h)(3) "do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence to establish the beneficiary's eligibility." As its plain wording shows, the "comparable evidence" clause is triggered only when the ten regulatory criteria "do not readily apply to the beneficiary's occupation." Because actual prizes and awards exist in the petitioner's field of endeavor, the "comparable evidence" clause at 8 C.F.R. § 204.5(h)(4) does not apply under this criterion, and we shall consider only the petitioner's actual awards, rather than accomplishments that counsel claims ought to be considered as tantamount to awards.

Counsel cites "pictures of the awards received by [the petitioner] and his team" after various competitions between 1996 and 2000, including an individual prize "as the most effective forward in the youth league" during the 1996-1997 season. The record contains no documentation *per se* of these awards, only photographs of trophies and medals with untranslated inscriptions. The only award with an English inscription (Exhibit I) reads "II Place / International Football Tournament / Olympic Hopes 2000." The record contains no further information about this tournament. Another medal (Exhibit L), with an inscription in the Cyrillic alphabet, also appears to include the logo of Ford Motor Company.

An unattributed "profile" in the record indicates that the petitioner played in four "Youth National team matches" and won first place in the Bulgarian Cup in 1996 and 1997, but this document is not from any official source. It amounts to a claim, rather than corroboration of such a claim.

Newspaper accounts in the record show that the petitioner's team won individual games, but there is no apparent indication in the articles that the petitioner's team won, or placed highly, in national or international championship competitions. In sum, the record shows that the petitioner

has received medals and trophies, but the documentation in the initial submission is not sufficient to show that any of these represent significant national or international prizes or awards.

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 translated copies of articles from *Burgas Today*, *Factor*, and *Accents*. These articles feature the petitioner, some more prominently than others. Some articles mention the petitioner only in the context of identifying him as having scored a goal. The petitioner, however, has submitted no evidence to show that these newspapers are major media at the national or international level. Local media coverage, because of its restricted circulation, cannot contribute to sustained acclaim at a national or international level unless the petitioner can demonstrate coverage in many local papers throughout the country.

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

Counsel states:

PFC "Neftochimic" is one of the leading teams in the Bulgarian professional soccer, i.e., an organization with distinguished reputations. . . . Although each position on a soccer team may be considered as crucial, the most crucial position is that of a forward. The fact that [the petitioner] scored a high number of goals playing in such a position proves that his role on the team was crucial.

The initial submission does not establish that Neftochimic "is one of the leading teams in . . . Bulgarian professional soccer." The assertions of counsel do not constitute evidence. *Matter of Laureano*, 19 I&N Dec. 1, 3 (BIA 1983); *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

Beyond the regulatory criteria, counsel states that the petitioner's "accomplishments have been recognized by respected experts in the field." The experts are all, without exception, officials of the team for which the petitioner played, or the school that he attended. [REDACTED] assistant coach of Neftochimic, states that the petitioner "is a worthy successor of his grandfather," who was a well-known soccer player decades earlier. Mr. [REDACTED] offers general praise for the petitioner, stating that he "contributed much" and became "a major figure in the team" at "the children's school of PFC 'Neftochimik' Bourgas."

[REDACTED] technique director of Neftochimic, states that in 1990, the petitioner began attending the [REDACTED] Sport School "with subject 'Football' in the team of FC 'Neftohimik.'" Mr. [REDACTED] states that the petitioner played as a forward with the team until 2000, and "participated in many

republican and international tournaments and together with his teammates won many titles and cups.”
[REDACTED] identifies none of these titles by name.

[REDACTED] manager of Sport Training at [REDACTED] Sport School, and [REDACTED] a teacher at the same school, offer similar descriptions of the petitioner as a dedicated and talented athlete. The attestations of the petitioner’s own superiors and teachers, however, cannot serve to demonstrate that the petitioner has become one of the most highly acclaimed players throughout the Bulgarian soccer community. Even the letters submitted say little more than that the petitioner is respected and talented.

The director requested further evidence, stating that the petitioner’s initial submission, described above, was not sufficient to establish eligibility. In response, counsel repeats some prior claims, such as the assertion that selection for a national team should be considered equivalent to an award. As noted above, the evidence is ambiguous as to the nature of this team; several witnesses have noted its affiliation with a school.

In response to the director’s request, to reinforce the petitioner’s claim of national awards, the petitioner submits a general overview of the structure of Bulgarian soccer and a letter from Emil Tabakov, identified above. Mr. [REDACTED] states that Neftochimic joined the A group (the highest level in Bulgaria’s three-tiered competitive structure) for the 1993-1994 season; finished in fourth place in 1995-1996; and in second place in 1996-1997, receiving silver medals. This information helps to establish the team’s distinguished reputation, but the record contains no objective evidence to demonstrate that the petitioner’s role within that team was any more leading or critical than that of the other players.

Mr. [REDACTED] states that, as a “cadet,” the petitioner scored numerous goals to help his team win first place in the “Cup of Bulgaria, Cadets” in 1996 and 1996. While the petitioner was playing for Neftochimic, that team entered the finals for the Cup of Bulgaria and finished in second place. [REDACTED] who had first encountered the petitioner when the petitioner “was playing for the youth team of PFC Neftochimic,” states that the petitioner “played excellent games” and that “aggressive passing abilities and scoring crucial goals are his forte.” Mr. [REDACTED] describes the petitioner’s abilities and accomplishments, but does not state that the petitioner has ever been among Bulgaria’s most acclaimed soccer players. Instead, Mr. [REDACTED] expresses confidence in the petitioner’s potential.

This information appears to suffice to demonstrate the petitioner’s receipt of national awards, although we note that the petitioner’s chief sources of information are officials of the petitioner’s former team. The attestations of a team official do not establish that the petitioner is, or has ever been, among Bulgaria’s better-known soccer players overall.

With regard to the newspaper articles submitted previously, the petitioner submits letters from publishing officials. [REDACTED] chief editor of *Compass*, states that *Burgas Today*, which ceased publication in 2000, was “a local daily newspaper.” *Compass* is the successor publication. [REDACTED] chief manager of *Factor*, states “[t]he Factor Newspaper is a

special weekly supplement for sports and culture of the Black Sea Lighthouse Newspaper of Burgas, . . . a regional daily paper.” These papers are, therefore, demonstrably local rather than national.

Regarding the petitioner’s work in the United States, the petitioner submits evidence showing that he is a registered coach with the Silver State Girls Soccer League; that he is an assistant coach for the “Cherry Bombs – Jaguars,” which leads the Bronze Division of the league’s “U-11 Age Group.” He has also committed to assist the Varsity Soccer Coach at Chaparral High School for two days a week during the 2002-2003 season. The petitioner does not indicate whether he has yet initiated contact with professional teams such as the Chicago Fire. In other paperwork submitted to what was then the Immigration and Naturalization Service, the petitioner indicated that he was working as a cashier at a grocery store and, at the same time, as a room attendant at a resort hotel.

The director denied the petition, stating that the petitioner has failed to establish that he has earned sustained acclaim at the very top of his field. On appeal, counsel maintains that the petitioner “has fulfilled four (4) of the criteria required.” Counsel notes two new letters from members of Congress, and states “[o]bviously, such letters may not be issued unless their authors are fully satisfied with the extent of the extraordinary abilities of the petitioner.”

Counsel notes that Senator [REDACTED] states that the petitioner “is a very bright young individual and a world-class soccer player” with “outstanding coaching skills.” Counsel does not mention that Sen. Reid goes on to state that “Chaparral High School has expressed serious interest in hiring him as assistant coach once he gets permission to work in the United States.” A tentative offer of an assistant coaching position at a high school does not immediately suggest sustained acclaim. There is no mention of possible employment as a professional player, which was the petitioner’s initial plan.

Counsel observes that Representative [REDACTED] has urged “consideration of [the petitioner’s] request.” All properly filed petitions are “considered,” whether or not they include letters from elected officials. Rep. [REDACTED] offers no opinion regarding the petitioner’s skills as a soccer player or coach, nor does she claim to be familiar with the petitioner’s abilities in those areas. The letter contains nothing to corroborate counsel’s claim that this letter exists only because Rep. [REDACTED] is “fully satisfied with the extent of the extraordinary abilities of the petitioner.”

The petitioner submits further materials regarding his current work with a high school girls’ soccer team, and establishing Bulgaria’s current ranking in Group 8, which also includes Croatia, Belgium, Estonia, and Andorra.

In the appellate brief, counsel repeats prior arguments and asserts that the evidence submitted previously should have sufficed to warrant approval of the petition. We need not revisit repetition of earlier arguments. Counsel’s new arguments are no more persuasive. For example, counsel states “Bulgaria is a small country and therefore a newspaper with a relatively small circulation may be considered as a major publication.” Counsel contends that the letters submitted

previously “certify that [the] Newspaper ‘Burgas Today’ was a major publication in the Burgas area and Bulgaria and that [the] Newspaper ‘Factor’ has been, and still remains to be, a major publication in the Burgas area and Bulgaria.” The letters, discussed above, clearly identify *Burgas Today* as a local publication, and *Factor* as a weekly supplement to a regional paper. Counsel’s references to “the Burgas area and Bulgaria” are misleading. “The Burgas area” is a part of Bulgaria, Burgas being a city on the coast of the Black Sea, at Bulgaria’s eastern border. There is no evidence that the above publications circulate outside of the easternmost areas of Bulgaria. Bulgaria’s major city, the capital city of Sofia, is located in the far western area of the country, near the opposite border from where Burgas is located.

The evidence submitted shows that the petitioner has had a successful career in soccer in Bulgaria, mostly as a student, but it does not show that the petitioner ever achieved sustained acclaim at the very top of the field. In the United States, the petitioner had earlier expressed confidence that he would secure a place on a professional team but his documented employment opportunities in the sport appear to be limited to the aforementioned offer from Chaparral High School. The petitioner is a coach with a state league, rather than at the national level. The evidence, all in all, is rather minimal and does not demonstrate or suggest that the petitioner is, or ever has been, one of Bulgaria’s most highly acclaimed soccer players.

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 distinguished himself as a soccer player 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.