



U.S. Citizenship  
and Immigration  
Services

29

[REDACTED]

FILE: [REDACTED] Office: NEBRASKA SERVICE CENTER Date: OCT 08 2004

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)

ON BEHALF OF PETITIONER:  
[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

*Mari Johnson*

Robert P. Wiemann, Director  
Administrative Appeals Office

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prevent clearly unwarranted  
invasion of personal privacy

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, Nebraska 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.

On appeal, counsel resubmits all previously submitted evidence without any assertion that the director failed to acknowledge the original submission of such documentation. Without more, such a submission would be deemed frivolous and the appeal would be summarily dismissed pursuant to 8 C.F.R. § 103.3(a)(1)(v). Counsel, however, also argues that as a horse trainer, the petitioner should be credited with the achievements of his horses and that the director failed to consider the evidence as “comparable evidence” pursuant to 8 C.F.R. § 204.5(h)(4). These arguments will be considered below.

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 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 he has sustained national or international acclaim at the very top level.

This petition seeks to classify the petitioner as an alien with extraordinary ability as a horse trainer. 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 that, 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.*

The petitioner submitted a letter from Raul Perez, the apparent owner of Kanm Ranch where the petitioner works. [REDACTED] asserts that the petitioner "has taken all my Horses to major top shows and championships in: The Spring Magnolia Classic Show in Tunica (Mississippi), Spectrum International in Tampa (Florida), Show-Me Show Springfield (Missouri) and Grand National Championship Shop in Perry (Georgia)." The petitioner also submitted [REDACTED] "Points Print" for horses allegedly trained and shown by the petitioner. The list does not name the trainer of the horses. [REDACTED] Executive Director of PFHA, asserts that the petitioner has earned a total of 352 points on six different Paso Fino horses combined. Specifically, [REDACTED] provides that the petitioner's training accomplishments include the following: two first placements in Classic Fino [REDACTED] four year olds, two first placements in the Classic [REDACTED] two first placements in Classic Fino Mares Championship, "all at a show" in Tunica, Mississippi, and two first placements in Performance Mares/Fillies Championship in Missouri.

The petitioner also submitted magazine articles reporting the results of the PFHA Confepaso 1999 in Florida where the horse Hussien, ridden by the petitioner, won in the group for stallions 77 months and over.

In a request for additional documentation, the director advised the petitioner to submit evidence regarding the significance of the above achievements. In response, counsel reiterates the claims above and states: "It is difficult to imagine how such an individual could be found to be any thing [sic] less than extraordinary [sic]." We note that the regulations specifically require that an alien meet three criteria. Submitting multiple awards does not relieve a petitioner from meeting at least two other criteria.

The petitioner also submitted letters attesting to the significance of the awards. [REDACTED] of the Fine Step Horse Breeders Association in Colombia asserts that the petitioner rode Hussein when he was named world champion at the 1999 IV Worldwide Championship in Tampa, Florida. The petitioner also submitted a letter from the president of PFHA regarding the prestige of the IV Confepaso Fino World Cup in 1999. The letter appears to have been posted on an unidentified Internet site. The petitioner also submitted another letter from [REDACTED] asserting that the petitioner won "best professional rider" in 1995. [REDACTED] further asserts that after the horses compete in their age class, the winners of those classes compete for the "great championship," the most important prize at an exhibition. Finally, [REDACTED] lists 15 Colombian competitions where the petitioner rode horses awarded championship status. In a new letter, [REDACTED] asserts that she is writing regarding the petitioner and explains the significance of being "crowned" world champion, but does not actually state that the petitioner's horse was crowned world champion.

The director concluded that the Confepaso was "institutional" rather than national or international and noted that the horse, not the petitioner, received the award. The director further concluded that the record lacked evidence regarding the significance of the remaining awards. On appeal, counsel asserts that the petitioner should be credited with the horse's award as a coach is credited with the awards his team wins.

The plain language of the regulation requires evidence of *the alien's* receipt of awards or prizes. Nevertheless, as noted by counsel, 8 C.F.R. § 204.5(h)(4) provides that where a criterion is not applicable, comparable evidence may be submitted. We find that awards issued to a horse are comparable evidence to meet this criterion for the trainer/rider of that horse. That said, the only award for which evidence was submitted regarding its significance is the 1999 Confepaso. The record contains no evidence that major trade publications

that do not focus on the Paso Fino breed report on this competition or that it is sanctioned by the U.S. Equestrian Federation. Moreover, the article in *4 Tiempos International* does not indicate that the petitioner's horse won World Champion title. Rather, the "World Grand Champion" at the 1999 Confepaso was Vitral. The petitioner's horse only won in his class. Even if we concluded that the petitioner minimally meets this criterion, it is one criterion. For the reasons discussed below, the petitioner falls far short of meeting any of the other criteria.

*Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.*

The petitioner submitted his membership cards for the Paso Fino Horse Association (PFHA) and the National Equestrian Federation of the United States. In the request for additional evidence, the director requested evidence of the minimum membership requirements for each association. In response, the petitioner submitted materials describing the membership benefits of the U.S. Equestrian Federation, which boasts 82,000 members.

The director concluded that the record did not establish that either association requires outstanding achievements of its members. Counsel does not address this conclusion other than to assert that the criteria set forth at 8 C.F.R. § 204.5(h)(3) are not appropriate and we should consider the evidence as "comparable" under 8 C.F.R. § 204.5(h)(4). We have already considered prizes awarded to the petitioner's horses as comparable evidence of prizes awarded to the petitioner. Counsel, however, has not submitted any evidence that exclusive associations do not exist in the petitioner's field. Even if they do not, the evidence must be comparable. We do not find that membership in non-exclusive professional associations is comparable to membership in associations that require outstanding achievements of their members.

*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 submitted an article in *4 Tiempos International*, which claims to be the world's largest Paso Fino Magazine. The article reports the results of Confepaso 1999, and, in two pages, mentions the petitioner only as the rider of Hussein, the winner in the stallions 77 months and over class. In a separate article, entitled "Success Stories," the petitioner and another rider are praised as being able to bring out the best in horses. An article in the *Paso Fino Journal* focuses on Hussein, noting that the petitioner has been the official trainer of the horse since 1995. The director requested evidence establishing the significance of these materials. The petitioner's response did not address this criterion. The director concluded that these materials were not primarily about the petitioner and could not meet this criterion. The director further concluded that promotional photographs in the record were not published material.

Once again, counsel does not address this criterion other than to request that the evidence be considered under 8 C.F.R. § 204.5(h)(4). We find that this criterion is applicable to the field as there are trade journals in the field. The petitioner's failure to meet the plain language of the criterion does not warrant acceptance of lesser evidence.

*Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.*

Secretary of the PFHA and a senior certified judge, praises the petitioner's ability to train, show and handle the Colombian Paso Fino horse. Similar letters from others working with this particular breed of horse praise the petitioner's abilities and characterize the petitioner as "world renowned" and "extraordinary." The letters include recommendations from Venezuela and Colombia. None of these letters explain how the petitioner has had a major influence on the field or set a world record. Thus, the petitioner has not established that he meets this criterion

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 horse trainer 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 indicates that the petitioner shows talent as a horse trainer, but is not persuasive that the petitioner's achievements set him significantly above almost all others in his field. 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.