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FILE: [Redacted] Office: VERMONT SERVICE CENTER

Date: SEP 06 2005

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:

SELF-REPRESENTED

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.

*Maui Johnson*

*R* 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 Administrative Appeals Office (AAO) 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 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 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 the beneficiary has earned sustained national or international acclaim at the very top level.

This petition, filed on April 18, 2003, seeks to classify the beneficiary as an alien with extraordinary ability as a rowing coach. At the time of filing, the beneficiary was employed as the Head Coach of the Men's Varsity Rowing Team at Colgate University.

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 pertaining 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 submitted evidence showing that the beneficiary was named [REDACTED] of the Year at the 10<sup>th</sup> Annual Joy of Sculling National Coaches Conference in 2002.

Pursuant to 8 C.F.R. § 204.5(h)(4), nationally or internationally recognized prizes or awards won by individuals or teams coached by the beneficiary may be considered as comparable evidence for this criterion. Here, it is important to evaluate the level at which the beneficiary acts as a coach. A coach who has established a successful history of coaching top athletes who win titles at the national level or above has a credible claim under the extraordinary ability visa classification; a coach of intermediates or junior-level athletes does not.

The petitioner submitted evidence showing that during the late 1990's the beneficiary was the primary coach of a crew team that placed first in the Egyptian national rowing championships and of an individual rower, [REDACTED] who placed second and third at World Cup rowing events.

On appeal, the submits correspondence from the United States Rowing Association, the Egyptian Olympic Committee, and the International Rowing Federation confirming that the petitioner remains active as the primary coach of top athletes who have competed successfully at the national and international level. We find that the evidence presented by the petitioner is adequate to satisfy this criterion.

*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 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 or international distribution. An alien would not earn acclaim at the national or international 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 would qualify as major media because of significant national distribution, unlike small local community papers.<sup>1</sup>

The petitioner submitted a 2003 article from *Rowing News* in which the beneficiary is listed as one of several recipients of a 2002 coaching award. There is no further mention of the beneficiary in this article. The petitioner also submitted a 1994 article from *Sports and Fitness Egypt* that devotes only eight sentences to the beneficiary. This article briefly mentions the beneficiary's activities as an athlete but it does not discuss his work as a coach.

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<sup>1</sup> Even with nationally-circulated newspapers, consideration must be given to the placement of the article. For example, an article that appears in the *Washington Post*, but in a section that is distributed only in Fairfax County, Virginia, cannot serve to spread an individual's reputation outside of that county.

On appeal, the petitioner submits a 2002 article from *The Colgate Maroon-News*, but this publication does not qualify as major media.

The petitioner also submits an article from the Summer 2004 issue of *World Rowing Magazine* (which devotes only three sentences to the beneficiary) and an article from the August 2004 issue of *Sports and Fitness Egypt* (which devotes only one sentence to the beneficiary). This evidence cannot be accepted, however, because it came into existence subsequent to the petition's filing date. A petitioner must establish eligibility at the time of filing. See *Matter of Katigbak*, 14 I&N Dec. 45 (Comm. 1971).

We cannot ignore that the plain wording of this criterion requires "published materials about the alien." In the preceding instances, the beneficiary himself was clearly not the primary subject of the published material. If the beneficiary's coaching talent is not the main subject of the articles, then such articles fail to demonstrate his individual acclaim. Furthermore, the petitioner has not shown that the preceding publications have a substantial national readership. In conclusion, we find that the evidence presented by the petitioner is not adequate to show that the beneficiary has been the primary subject of sustained major media attention.

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

The petitioner submitted a certificate from the Egyptian Rowing and Canoe Federation indicating that the beneficiary served as Head Rowing Coach for the Egyptian National Team during the late 1990's. On appeal, the petitioner submitted correspondence from the Egyptian Olympic Committee and the Egyptian Rowing and Canoe Federation confirming the beneficiary's selection in 2003 as the Head Coach for the 2004 Egyptian Olympic Rowing Team.

A letter from [REDACTED] Director General, Egyptian Olympic Committee, states: "[The beneficiary] has been commissioned to lead the Egyptian Rowing Olympic Team for 2004 Olympic Games to be held from 13-29 of August 2004, Athens, Greece. . . . He is currently supervising and overseeing the training of Egyptian Olympic athlete [REDACTED] in a preparation camp in Colgate University. . . ."

In this case, we find that the evidence presented satisfies only two of the regulatory criteria at 8 C.F.R. § 204.5(h)(3).

Documentation in the record indicates that the alien is the beneficiary of an approved O-1 nonimmigrant visa petition. The approval of an O-1 nonimmigrant visa petition on behalf of a given alien does not in any way compel Citizenship and Immigration Services (CIS) to approve a subsequent visa petition under section 203(b)(1)(A) of the Act on behalf of that same alien. Each petition must be adjudicated on its own merits based on the evidence submitted to support that petition. Furthermore, there is no statute, regulation, or binding precedent that requires the approval of an immigrant visa petition under section 203(b)(1)(A) of the Act when the alien already holds an O-1 nonimmigrant visa.

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 in this case has failed to demonstrate that the beneficiary meets at least three of the criteria that must be satisfied to establish the sustained national or international acclaim necessary to qualify as an alien of extraordinary ability. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.