

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

B2



FILE: [REDACTED]  
LIN 04 225 50217

Office: NEBRASKA SERVICE CENTER

Date: **OCT 25 2007**

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

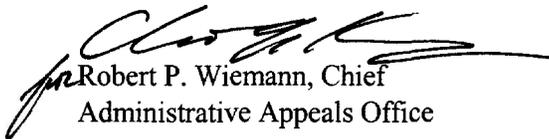
PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:



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.

  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center. The petitioner appealed the decision to the Administrative Appeals Office (AAO). The AAO dismissed the petitioner's appeal. The matter is now before the AAO on motion to reopen. The motion will be granted, the previous decision of the AAO will be affirmed, and the petition will remain denied.

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, the AAO concurred with the director's determination, finding that the petitioner had met only two of the regulatory criteria at 8 C.F.R. § 204.5(h)(3).<sup>1</sup>

On motion, counsel argues that coaching a national speed skating team that wins gold medals at the 2003 Winter Asian Games represents a one-time achievement (that is, a major, internationally recognized award) sufficient to satisfy the regulation at 8 C.F.R. § 204.5(h)(3).

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 into the United States will substantially benefit prospectively the United States.

Citizenship and Immigration Services (CIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). 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):

---

<sup>1</sup> The petitioner was found to have satisfied the regulatory criteria at 8 C.F.R. §§ 204.5(h)(3)(i) and (viii).

Initial evidence: A petition for an alien of extraordinary ability must be accompanied by evidence that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise. Such evidence shall include evidence of a one-time achievement (that is, a major, international recognized award), or at least three of the following:

- (i) Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor;
- (ii) 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;
- (iii) Published material 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;
- (iv) 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;
- (v) Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field;
- (vi) Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media;
- (vii) Evidence of the display of the alien's work in the field at artistic exhibitions or showcases;
- (viii) Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation;
- (ix) Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field; or
- (x) Evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales.

The regulation at 8 C.F.R. § 204.5(h)(4) states: "If the above standards do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence to establish the beneficiary's eligibility."

This petition, filed on August 2, 2004, seeks to classify the petitioner as an alien with extraordinary ability as a speed skating coach. The regulatory criterion at 8 C.F.R. § 204.5(h)(3)(i) calls for "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." The AAO addressed the two gold medals earned by [REDACTED] a Korean Speed Skating

National Team member who was coached by the petitioner at the 2003 Winter Asian Games, in its September 1, 2006 decision stating:

It is not clear that significant awards exist for speed skating coaches; however, . . . awards won by teams or individuals coached by the petitioner may be considered as comparable evidence for this criterion pursuant to 8 C.F.R. § 204.5(h)(4).

The petitioner submitted a June 14, 2005 letter from [REDACTED] Skater, stating:

Back in . . . 2003, I won two gold medals in Aomori, Japan during the 5<sup>th</sup> Winter Asian Game[s] in 1,000-meter with a time of 1:13.83 seconds, and also in 1,500-meter with a time of 1:54.65 seconds.

I was able to win many medals . . . because of [the petitioner] who trained me to become a professional skater. He taught me how to be the world-class top skater.

The record includes material printed from the internet and other independent evidence confirming the information provided by [REDACTED]. The petitioner also submitted a letter from the president of the Korea Skating Union confirming that the petitioner served as Head Coach for the Korean National Team from June 2002 to June 2003. We find that the petitioner's evidence is adequate to satisfy this criterion.

On motion, counsel for the petitioner states:

The petition was denied because [the petitioner] was found to have satisfied only two of the ten indicia of extraordinary ability at 8 C.F.R. § 204.5(h)(3). However, that paragraph also provides that extraordinary ability can be demonstrated by evidence that the petitioner has been awarded a single major internationally recognized award. The petitioner has previously provided evidence that he was the coach of the Korean speed skating team which won two gold medals in the 2003 Winter Asian Games, the 1000 m and 1500 m competitions, and in fact your office has determined that [the petitioner] has satisfied 8 C.F.R. § 204.5(h)(3)(i) by providing evidence that he has received a "lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." However, the evidence submitted with this motion demonstrates that coaching a gold medal winning team in the Winter Asian Games is not merely a lesser, but in fact a **major** internationally recognized award in the field of speed skating. [Emphasis in original]

Counsel refers to the team coached by the petitioner at the 2003 Winter Asian Games as a "gold medal winning team." The record, however, contains no evidence showing that the Korean National Team, as a whole, earned a "team" gold medal at the Winter Asian Games as implied by counsel. Rather, one athlete who competed for the Korean National Team, [REDACTED] won gold medals in the two individual events in which he participated (the 1,000-meter and the 1,500-meter races).

The petitioner's motion includes a September 29, 2006 letter of support from [REDACTED] Secretary General, Korean Olympic Committee, stating:

The Korean Olympic Committee is the official representative of the Republic of Korea to the International Olympic Committee. As such, we are uniquely positioned to be knowledgeable regarding the state of competitive sports in Korea and Asia as whole.

We are very familiar with the Winter Asian Games. The Winter Asian Games are an integral part of the Asian Games, which, next to the Olympics themselves, is the most important sporting event in Asia. Conducted once every four years it consists of Olympic level competition, limited to the countries of Asia. Most Asian countries compete and take this competition very seriously. Successful performance in the Asian games is a matter of intense national pride throughout Asia and winning medals in this competition is a highly prestigious honor, second only to triumphing in the Olympic Games themselves.

A particularly important role in teams competing in the Asian games is, as in the Olympics, that of the coach. To be chosen to coach the national team in the Asian games is in itself a great honor typically reserved for the most outstanding coach of that sport in the country.

The regulatory criterion at 8 C.F.R. § 204.5(h)(3)(viii) calls for “[e]vidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.” In its September 1, 2006 decision, the AAO addressed the petitioner’s coaching role stating: “We concur with the director’s finding that the petitioner meets this criterion based on his role as head coach for the Korean National Speed Skating Team.” Thus, the petitioner’s role as head coach of the Korean National Team was given due consideration under the criterion at 8 C.F.R. § 204.5(h)(3)(viii).

letter continues:

Further, an award granted to a national team is generally viewed as tantamount to an award to the coach himself. Therefore, for a national team to win a gold medal in the Asian Games including the Winter Asian Games is, in our view, a major internationally recognized award to its coach.

We are well acquainted with [the petitioner], the famous coach of the unprecedentedly successful Korean speed skating team in the 2003 Winter Asian Games. In those games the Korean men won gold medals in both the 1,000 and 1,500 meter competitions, the first time the Korean team had won a gold medal in the Asian Games in speed skating. This was a very memorable accomplishment and the award to the Korean team of those medals was, in our view, and in the view of the international sports community as a whole, a major internationally recognized award to the team’s coach, [the petitioner].

As previously discussed, the AAO accepted the two gold medals earned by [redacted] at the 2003 Winter Asian Games as comparable evidence of the petitioner’s receipt of lesser internationally recognized awards for excellence in the field of endeavor. Thus, these awards that were earned by an athlete coached by the petitioner (rather than the petitioner himself) were given due consideration under the criterion at 8 C.F.R. § 204.5(h)(3)(i).

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, internationally recognized award). Here, the burden is on the petitioner to submit evidence showing that coaching an athlete who won gold medals at the 2003 Winter Asian Games is a one-time achievement indicative of major, international recognition in his field of expertise, speed skating coaching.

Given Congress' intent to restrict this category to "that small percentage of individuals who have risen to the very top of their field of endeavor," the regulation permitting eligibility based on a one-time achievement must be interpreted very narrowly, with only a small handful of awards qualifying as major, internationally recognized awards. See H.R. Rep. 101-723 at 59 (Sept. 19, 1990). The House Report specifically cited to the Nobel Prize as an example of a one-time achievement. *Id.* We note that Nobel Laureates are selected from a global pool of nominees, are reported in major media internationally regardless of nationality, and receive substantial monetary awards. While a major award could constitute a one-time achievement without having all the elements of a Nobel Prize, the House Report and the regulation clearly show that the award must be internationally recognized as one of the top awards in the alien's field.

As evidence of the significance of the 2003 Winter Asian Games, the petitioner submits material printed from Wikipedia, an internet encyclopedia, stating: "The **5th Winter Asian Games** were played from February 1, 2003 to February 8, 2003 in Aomori, Japan." [Emphasis in original] This single statement was followed by a "Medal count" chart reflecting the number of medals earned by Japan (67), China (33), Republic of Korea (28), Kazakhstan, (20) Lebanon (2), Democratic People's Republic of Korea (2), and Uzbekistan (1).

Additional material printed from Wikipedia, entitled "Asian Games," states:

The **Asian Games**, also called the **Asiad**, is a multi-sport event held every four years among athletes from all over Asia. The games are regulated by the Olympic Council of Asia (OCA) under the supervision of the International Olympic Committee (IOC). Medals are awarded in each event, with gold for first place, silver for second, and bronze for third, a tradition which started in 1950.

\* \* \*

The last winter games (2003 Winter Asian Games, Aomori, Japan) was dominated by athletes from Japan, South Korea, and the People's Republic of China.

[Emphasis in original]

The petitioner also submits a September 29, 2002 article entitled "Asian Games Begin" posted on the British Broadcasting Corporation (BBC) News internet site, but this article is about the opening of the 14<sup>th</sup> Asian Games in Busan, South Korea (2002) rather than the 5<sup>th</sup> Winter Asian Games (2003) in Aomori, Japan where the petitioner coached.

The record includes no further evidence addressing the level of international recognition associated with the 2003 Winter Asian Games or its speed skating events. We cannot ignore that this competition is a regional international competition in speed skating rather than a global competition such as the Olympics, the World

Sprint Speed Skating Championship, or the World Single Distance Speed Skating Championship. For example, the record includes information from the Korean Skating Union (exhibit 6 submitted by the petitioner in response to the director's request for evidence) for the following competitive speed skating events:

- 2000 World Sprint Speed Skating Championship (Seoul, Korea, 17 nations, 61 skaters)
- 2002 4<sup>th</sup> Essent International Skating Union [ISU] World Cup Speed Skating (Nagano, Japan, 11 nations, 70 skaters)
- 2002 5<sup>th</sup> Essent ISU World Cup Speed Skating (Harbin, China, 10 nations, 61 skaters)
- 2003 World Sprint Speed Skating Championship (Calgary, Canada, 13 nations, 66 skaters)
- 2003 5<sup>th</sup> Winter Asian Games (Aomori, Japan, 7 nations, 56 skaters)
- 2003 8<sup>th</sup> Essent ISU World Cup Speed Skating (Inzell, Germany, 17 nations, 87 skaters)
- 2003 9<sup>th</sup> Essent ISU World Cup Speed Skating (Heerenveen, Netherlands, 22 nations, 190 skaters)
- 2003 World Single Distance Speed Skating Championship (Berlin, Germany, 18 nations, 127 skaters)

According to the information from the Korean Skating Union, when compared to the international speed skating events listed above, the 5<sup>th</sup> Winter Asian Games (2003) had the least number of participating nations (7) and skaters (56). Further, unlike major international speed skating competitions such as the Olympics, the World Single Distance Speed Skating Championship and the World Sprint Speed Skating Championship, the 5<sup>th</sup> Winter Asian Games was limited to speed skating competitors from only Asian nations. As the plain language of the regulation at 8 C.F.R. § 204.5(h)(3) qualifies the phrase "international recognized award" with the limitation "major," we cannot conclude that the petitioner's involvement in a geographically restricted competition consisting of only seven nations and 56 speed skaters satisfies the regulation. While we accept that receipt of a gold medal at the 5<sup>th</sup> Winter Asian Games is evidence of lesser international recognition in the sport of speed skating, the petitioner's evidence fails to demonstrate that coaching an athlete who received two gold medals at this event is evidence of "a major, international recognized award" as required by the regulation at 8 C.F.R. § 204.5(h)(3).

Aside from failing to submit evidence establishing a qualifying one-time achievement, the petitioner has not demonstrated *sustained* national or international acclaim as a speed skating coach since his entry into the United States. The record reflects that the petitioner has resided in the United States since August 4, 2003. As required by section 203(b)(1)(A)(i) of the Act and the regulation at 8 C.F.R. § 204.5(h)(3), the petitioner must demonstrate that his national or international acclaim in his sport has been sustained. Subsequent to his U.S. arrival in 2003, there is no evidence that the petitioner has sustained national or international acclaim as a coach or that his achievements have been recognized in his field of expertise. According to two local Korean-language newspaper articles published in Washington State and June 7, 2004 letters of support from Robert and Sue Celski of the Puget Sound Speedskating Club, the petitioner has gone from coaching a

national team in Korea to coaching youth skaters on a volunteer basis “three days a week” and offering “children skating classes.” The petitioner has not shown that his activities in his sport in the year preceding the filing of this petition are consistent with sustained national or international acclaim as a speed skating coach at the very top of his field.

In this case, we concur with the director’s finding and our prior decision that the petitioner has failed to demonstrate his 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 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.

**ORDER:** The AAO’s September 1, 2006 decision dismissing the appeal is affirmed. The petition will remain denied.