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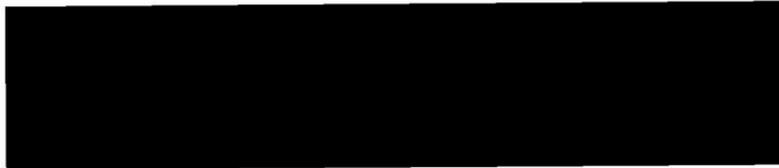
FILE: [Redacted] Office: NEBRASKA SERVICE CENTER
LIN 07 003 52327

Date: JUN 0 2 2008

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 Director, Nebraska Service Center, denied the employment-based immigrant visa petition, which is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained and the petition will be approved.

The petitioner seeks classification as an “alien of extraordinary ability” in athletics, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). The director determined the petitioner had established sustained national or international acclaim as a competitive athlete but not as a coach, the proposed employment.

On appeal, counsel submits a brief and resubmits previously submitted evidence that is already part of the record of proceeding. For the reasons discussed below, we find that the petitioner, who is coaching at an elite facility that attracts skaters from all over the world, has demonstrated that coaching falls within his area of expertise.

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, 60898-9 (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). 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 figure skating coach. The regulation at 8 C.F.R. § 204.5(h)(3) presents ten criteria for establishing sustained national or international acclaim, and requires that an alien must meet at least three of those criteria unless the alien has received a major, internationally recognized award. The director expressly concluded that the petitioner qualifies as a competitive skater of extraordinary ability. Thus, the only issue is whether the petitioner has demonstrated that coaching falls within his area of expertise.

The regulation at 8 C.F.R. § 204.5(h)(5) requires evidence that the beneficiary is coming to the United States to “continue work in the area of expertise.” Counsel asserts that a top-level ice-skating coach must have demonstrated ability as a skater. While a figure skater and a coach certainly share knowledge of ice-skating, the two rely on very different sets of basic skills. Thus, we will not presume that coaching necessarily falls within the same area of expertise as competitive athletics. Even if, as counsel asserts, that every nationally acclaimed skating coach was previously a nationally acclaimed skater, this does not imply or suggest that every nationally acclaimed skater must be a skilled skating coach. This interpretation has been upheld in Federal Court. *See Lee v. I.N.S.*, 237 F. Supp. 2d 914, 918 (N.D. Ill. 2002)(noting a consistent history in this area).

Nevertheless, this office has recognized that there exists a nexus between competing and coaching. To assume, as counsel implies, that every extraordinary athlete’s area of expertise includes coaching would be too speculative. To resolve this issue, the following balance is appropriate. In a case where an alien has clearly achieved national or international acclaim as an athlete and has sustained that acclaim in the field of coaching at a national level, we can consider the totality of the evidence as establishing an overall pattern of sustained acclaim and extraordinary ability such that we can conclude that coaching is within the petitioner’s area of expertise. Specifically, in such a case we will consider the level at which the alien acts as a coach. A coach who has an established successful history of coaching athletes who compete regularly at the national level has a credible claim; a coach of novices does not.

From 1999 through 2001, the petitioner served on the coaching team, led by Head Coach [REDACTED], for [REDACTED] and [REDACTED] Senior European Champions in 1999 and 2000 and Senior World Champions in 2000. From 2001 through 2002, the petitioner coached [REDACTED] and [REDACTED] who were members of the Italian National Junior Figure Skating Team. While a coach at the Figure Skating Club of the Quad-Cities, the petitioner coached [REDACTED] and [REDACTED] who competed at the junior level at national U.S. Figure Skating Championships and won a bronze medal in the junior pairs division at the Triglav Trophy in Slovenia. In 2005, the petitioner began working as a coach at the Ice Castle International Training Center in Lake Arrowhead, a training facility where [REDACTED] trained and which attracts top skaters internationally. At the Ice Castle, the petitioner has been coaching Israeli pairs team [REDACTED] and [REDACTED] Mr. [REDACTED] is a five-time Israel National Champion who has competed at two European and World Championships. He and his partner strive to compete in the 2010 Winter Olympics.

The director concluded that the petitioner had only coached at the junior level and, thus, had not demonstrated his national or international acclaim as a coach. As stated above, however, we will not wholly discount the petitioner's acclaim as a skater. Rather, where an alien is clearly a nationally or internationally acclaimed athlete, we look to see whether the petitioner has demonstrated an overall pattern of acclaim that demonstrates that coaching is within his area of expertise. While the petitioner coached junior competitors, these athletes were competing nationally and internationally at the highest level for their age group. Moreover, as stated above, at the time of filing this petition, the petitioner was already coaching a team that included a five-time national champion at the senior level. Thus, we are persuaded that the petitioner was not merely serving as a coach of novices drawn from the local area, but as a coach of athletes who had proven themselves in national and international competition and were preparing for top-level competition at the senior level. Given all the evidence of record in the aggregate, both the evidence mentioned above and the remaining evidence of record, we are persuaded that coaching falls within the petitioner's area of expertise.

In review, while not all of the petitioner's evidence carries the weight imputed to it by counsel, the petitioner has established that he has been recognized as a skater of extraordinary ability who has achieved sustained national or international acclaim and whose achievements at the national level include coaching. Therefore, the petitioner has established eligibility for the benefits sought under section 203(b)(1)(A) of the Act.

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 met that burden.

ORDER: The decision of the director is withdrawn. The appeal is sustained and the petition is approved.