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U.S. Citizenship  
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Services

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FILE: LIN 03 276 52321 Office: NEBRASKA SERVICE CENTER Date: MAY 11 2011

IN RE: Petitioner:  
Beneficiary:



PETITION: Petition for a Nonimmigrant Worker under Section 101(a)(15)(O)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(O)(i)

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.

*Mari Johnson*

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The Director, Nebraska Service Center, denied the nonimmigrant visa petition in a decision dated December 22, 2003. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner, Detroit Skating Club, Inc., is an ice skating club. The petitioner seeks O-1 classification of the beneficiary, as an alien with extraordinary ability in athletics under section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(O)(i), in order to employ her in the United States as an ice skating instructor for a period of three years.

The director denied the petition, finding that the petitioner failed to establish that the beneficiary has received sustained national or international acclaim and is one of a small percentage who have risen to the very top of her field of endeavor.

On appeal, counsel for the petitioner submits a brief.

Section 101(a)(15)(O)(i) of the Act provides classification to a qualified alien who has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim, whose achievements have been recognized in the field through extensive documentation, and who seeks to enter the United States to continue work in the area of extraordinary ability.

The regulation at 8 C.F.R. § 214.2(o)(3)(ii) defines, in pertinent part:

*Extraordinary ability in the field of science, education, business, or athletics* means a level of expertise indicating that the person is one of the small percentage who have arisen to the very top of the field of endeavor.

The regulation at 8 C.F.R. § 214.2(o)(3)(iii) states, in pertinent part, that:

*Evidentiary criteria for an O-1 alien of extraordinary ability in the fields of science, education, business, or athletics.* An alien of extraordinary ability in the fields of science, education, business, or athletics must demonstrate sustained national or international acclaim and recognition for achievements in the field of expertise by providing evidence of:

(A) Receipt of a major, internationally recognized award, such as the Nobel Prize; or

(B) At least three of the following forms of documentation:

(1) Documentation of the alien's receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor;

(2) 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;

- (3) Published material in professional or major trade publications or major media about the alien, relating to the alien's work in the field for which classification is sought, which shall include the title, date, and author of such published material, and any necessary translation;
- (4) Evidence of the alien's participation on a panel, or individually, as a judge of the work of others in the same or in an allied field of specialization to that for which classification is sought;
- (5) Evidence of the alien's original scientific, scholarly, or business-related contributions of major significance in the field;
- (6) Evidence of the alien's authorship of scholarly articles in the field, in professional journals, or other major media;
- (7) Evidence that the alien has been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation;
- (8) Evidence that the alien has either commanded a high salary or will command a high salary or other remuneration for services, evidenced by contracts or other reliable evidence.

(C) If the criteria in paragraph (o)(3)(iii) of this section do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence in order to establish the beneficiary's eligibility.

The beneficiary in this matter is a 38-year old native of the former Soviet Union and citizen of Russia. The evidence on the record indicates that the beneficiary last entered the United States as a B-2 nonimmigrant visitor on April 25, 2003. The evidence on the record indicates that the beneficiary was a competitive skater from the age of 12 until age 17. She completed a program of study in physical culture and sport at the Moscow Region State Institute of Physical Culture in 1987 and shortly thereafter began teaching ice-skating.

After a careful review of the record, it must be concluded that the petitioner has failed to overcome the grounds for denial of the petition. The record is insufficient to establish that the beneficiary is an alien with extraordinary ability in athletics.

First, there is no evidence that the beneficiary has received an award equivalent to that listed at 8 C.F.R. § 214.2(o)(3)(iii)(A). Nor is the record persuasive in demonstrating that the beneficiary met at least three of the criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B).

*Documentation of the alien's receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor.*

For criterion number one, the petitioner submitted evidence of the beneficiary's receipt of diplomas, certifications, awards as a competitor and the awards of her pupils.

The record contains evidence that the beneficiary has been the recipient of numerous awards while competing at the junior level division of skating. In 1983, the beneficiary and her partner won first place in the USSR Junior National Championships. The director determined that since the awards were limited to the junior level and the beneficiary was competing with skaters in her age group rather than the entire field of skaters, the evidence failed to establish national or international acclaim among all ice skaters in the field. The AAO concurs.

In cases such as this, where alien athletes/coaches seek O-1 classification, Citizenship and Immigration Services (CIS) will consider as comparable evidence, the success of athletes coached by the alien.

The petitioner stated:

[The beneficiary] successfully coached Ekaterina Svirina and Sergei Sakhnvoski to a 1993 Junior World Ice Dance Championship and Nina Ulanova and Mikhail Stifunin to 1997 Junior World Ice Dance Championship.

Again, the petitioner failed to establish that the beneficiary's pupils received internationally or nationally recognized prizes for excellence in their field. It is not enough to win at a "junior" level.

On appeal, counsel for the petitioner asserts that the director erred by discounting the beneficiary's pupils' success at the junior level because "Junior World Ice Dance Championships are not just national but a world wide recognized contest." The assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

In review, the beneficiary's pupils have not achieved significant recognition; hence, the evidence is insufficient to establish the beneficiary's acclaim.

*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.*

For criterion number two, the petitioner initially stated that the beneficiary satisfied this criterion because she had been a fully licensed member of the National Ice Skating Association of the United Kingdom, the National Ice Centre, the Cologne Ice Club, The Central Sport of Army, the AZLK Skating Club and the USSR World Junior Figure Skating Team.

The evidence on the record indicates that the beneficiary received an assessment and a coaching certification from the National Ice Skating Association of United Kingdom. Certification is not equivalent to membership. The evidence further indicates that the beneficiary was *employed* by the National Ice Centre in Nottingham, England. The evidence does not show that the National Ice Centre is an association, per se. The petitioner submitted a letter from a sports development manager at the National Ice Centre, which states that its "club membership is

limited to those individual skaters and coaches [who] have achieved, and continue to maintain, outstanding achievements in the field of Skating.” In a letter dated July 4, 2000, the General Secretary of the Figure Skating Federation of Russia, indicated that the beneficiary worked as a coach at the Central Sportclub of Red Army and at the AZLK club. The record also contains a letter from a director at the Central Sport of Army that states that the beneficiary was a member from 1991 to 1995 and that membership is limited to only those individual skaters and coaches which have achieved outstanding achievements in the field of skating. The evidence is insufficient to establish that these are associations that require outstanding achievements of their members *as judged by nationally or internationally recognized experts*. The beneficiary does not satisfy this criterion.

*Published material in professional or major trade publications or major media about the alien, relating to the alien’s work in the field for which classification is sought, which shall include the title, date, and author of such published material, and any necessary translation.*

For criterion number three, the petitioner submitted several articles relating to the beneficiary’s skating competitions completed in the junior age division. The record also contains an article featuring the beneficiary’s husband wherein one paragraph discusses the beneficiary as a skating coach. It is noted that a number of translations in the record were not certified as required by the regulation at 8 C.F.R. § 103.2(b)(3); therefore, they cannot be considered.

The articles fail to establish that the beneficiary has sustained national or international acclaim. The petitioner also asserted that the beneficiary meets this criterion because she was listed in the National Ice Centre program that was distributed nationwide. The AAO does not agree that the beneficiary’s brief biography’s inclusion in the Centre’s literature is equivalent to publicity in major media. She does not satisfy this criterion.

*Evidence of the alien’s participation on a panel, or individually, as a judge of the work of others in the same or in an allied field of specialization to that for which classification is sought.*

The petitioner did not claim that the beneficiary satisfies this criterion or submit any documents in relation to this criterion.

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

For criterion number five, the petitioner submitted several letters attesting to the beneficiary’s expertise and ability. The petitioner asserts that the beneficiary meets this criterion because she coached her students “to achieving great success in Ice Skating.” The petitioner failed to establish that the beneficiary has made an original contribution of major significance in her field of endeavor. The beneficiary does not satisfy this criterion.

*Evidence of the alien’s authorship of scholarly articles in the field, in professional journals, or other major media.*

No evidence was submitted in relation to criterion number six.

*Evidence that the alien has been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation.*

For criterion number seven, the director determined that the beneficiary satisfies this criterion. This portion of the director's decision shall be withdrawn. According to the evidence on the record, the petitioner was employed by the National Ice Centre in Nottingham, England from October 2000 until January 2002, as an International Head Ice Dance Coach. The petitioner failed to establish that the National Ice Centre has a distinguished reputation.

*Evidence that the alien has either commanded a high salary or will command a high salary or other remuneration for services, evidenced by contracts or other reliable evidence.*

No evidence was submitted in relation to criterion number eight.

This evidence is insufficient to establish eligibility for this restrictive visa classification, which requires extensive documentation of extraordinary achievement.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not met that burden.

**ORDER:** The appeal is dismissed.