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U.S. Department of Homeland Security
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Washington, DC 20536



U.S. Citizenship
and Immigration
Services

[Redacted]

FILE: EAC 02 025 50223 Office: VERMONT SERVICE CENTER

Date **MAR 04 2004**

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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

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.

[Signature]
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition will be denied.

The petitioner is a soccer coaching and promotion company that seeks to employ the beneficiary as a regional manager. The petitioner, therefore, endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101 (a)(15)(H)(i)(b).

The director denied the petition because the beneficiary is not qualified to perform the duties of a specialty occupation. On appeal, counsel submits a brief and a credentials evaluation for the beneficiary.

Section 214(i)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1184(i)(2), states that an alien applying for classification as an H-1B nonimmigrant worker must possess full state licensure to practice in the occupation, if such licensure is required to practice in the occupation, and completion of the degree in the specialty that the occupation requires.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(C), to qualify to perform services in a specialty occupation, an alien must meet one of the following criteria:

- (1) Hold a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
- (2) Hold a foreign degree determined to be equivalent to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
- (3) Hold an unrestricted state license, registration or certification which authorizes him or her to fully practice the specialty occupation and be immediately engaged in that specialty in the state of intended employment; or
- (4) Have education, specialized training, and/or progressively responsible experience that is equivalent to completion of a United States baccalaureate or higher degree in the specialty occupation, and have recognition of expertise in the specialty through progressively responsible positions directly related to the specialty.

The record of proceeding before the AAO contains, in part: (1) Form I-129 and supporting documentation; (2) the director's request for additional evidence; (3) the petitioner's response to the director's request; (4) the director's denial letter; and (5) Form I-290B and supporting documentation. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner is seeking the beneficiary's services as a regional manager in its soccer coaching and promotion business activities. The petitioner indicated in an October 10, 2001 letter that it required a person with a bachelor's degree in physical education, sports science, recreation management, business management, or other teaching degree in a closely related field. The petitioner also stated that for its more advanced soccer clinics, it needed staff who were skilled soccer players with professional or semi-professional levels. The petitioner compared the skill level of the proffered position to that of a high school athletic director, collegiate soccer coach, or physical education department head.

The director found that the beneficiary was not qualified for the proffered position because the petitioner had not submitted an educational equivalency document to establish that the beneficiary had the equivalent of a baccalaureate degree from an accredited U.S. educational institution. On appeal, counsel states that the petitioner was established over fifteen years ago and is in the business of providing soccer training coaching instructions to players, parents and coaches. Counsel also states that the petitioner had previously submitted over twenty-five H-1B petitions for beneficiaries with baccalaureate degrees for similar regional manager positions within the petitioner's business operations. Counsel asserts that CIS never requested a formal educational equivalency document with these prior petitions. Counsel then submits a document written by Joel B. Slocum, director, Education International, Wellesley, Massachusetts. The document is entitled "statement of evaluation-advisory interpretation." The document states that based on the beneficiary's studies in England, he had the equivalent of "at least a bachelor's degree, specialized in sports and recreation studies with leisure and tourism studies." Counsel also submits copies of approved I-129 petitions.

This educational equivalency document submitted on appeal is not found to be sufficient to establish the regulatory criterion outlined in 8 C.F.R. § 214.2(h)(4)(iii)(C)(2). First, the evaluation provides no information as to the qualifications of the evaluator and the basis on which he reached his conclusions with regard to the beneficiary's university studies. Second, it is not clear from the submitted statement of marks document exactly how the evaluator reached his determination that the beneficiary had the equivalent of a four-year U.S. baccalaureate degree. This document appears to list coursework for two years of university studies. Each year appears to have six modules; however, there is no information provided with regard to the length of each module, and how these modules, when viewed as a whole, would constitute four years of university studies. In addition, the record is not clear as to whether the beneficiary actually graduated from The College of St. Mark and St. John, or merely finished his coursework. A copy of the beneficiary's diploma would have provided additional weight to the evidence in the instant petition.

Upon review of the record, the petitioner has failed to establish that the beneficiary is qualified to perform an occupation that requires a baccalaureate degree in a specific specialty. The beneficiary does not hold a baccalaureate degree from an accredited U.S. college or university in any field of study. With regard to the educational equivalency document submitted by the petitioner on appeal, this letter is not found to be sufficient to establish that the beneficiary has a foreign degree determined to be equivalent to a baccalaureate degree from a U.S. college or university in any field of study. Accordingly, the AAO shall not disturb the director's denial of the petition.

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

ORDER: The appeal is dismissed. The petition is denied.