

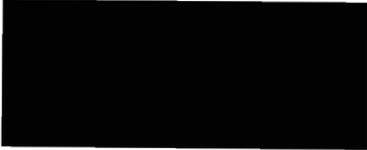


U.S. Department of Justice

Immigration and Naturalization Service

DB

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



File: WAC-99-124-52125 Office: California Service Center Date: MAR - 7 2001

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

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

IN BEHALF OF PETITIONER:



prevent disclosure of information
invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

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FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann
for Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a gymnastics facility. The beneficiary is a gymnast competing in the field of aerobic gymnastics/sport aerobics. The petitioner seeks classification of the beneficiary under section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the "Act"), as an alien with extraordinary ability in athletics, in order to employ her in the United States as a gymnastics coach for a period of three years.

The director acknowledged the beneficiary's ability as a gymnast but denied the petition finding that the petitioner had not established that the beneficiary has extraordinary ability as a gymnastics coach.

On appeal, counsel for the petitioner argued, in pertinent part, that it is common to hire former top athletes as coaches and requested that the decision be reconsidered.

Section 101(a)(15)(O)(i) of the Immigration and Nationality Act (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 issue raised by the director in this proceeding is whether the position of coach constitutes continuing work in the area of extraordinary ability.

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.

8 C.F.R. 214.2(o)(1)(ii) states that O-1 classification applies to alien athletes to continue work in the area of extraordinary ability.

The beneficiary is a native and citizen of Bulgaria. The petitioner submitted documentation reflecting that the petitioner is a top competitor in the emerging field of aerobic gymnastics. The petitioner also submitted a consultation letter from the

Association of National Aerobic Championships Worldwide attesting to the beneficiary's acclaim in the sport.

The O-1 classification is available to qualified aliens who seek to come to the United States to perform services relating to a specific event or events. 8 C.F.R. 214.2(o)(1)(i). In this case, it is concluded that coaching at a gymnastics facility is not related to a specific athletic event or events and does not constitute continuing in the work of athletic performance at the extraordinary level. There is no evidence that coaching gymnastics requires being, or having been, a gymnast or that there are any recognized standards evaluating or ranking coaching. Accordingly, the director's decision is affirmed.

The denial of this petition is without prejudice to the filing of a petition on behalf of the beneficiary for any other benefit for which she may be eligible.

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.