

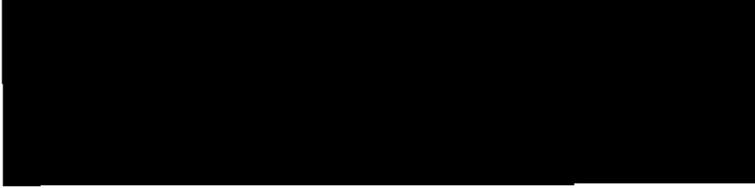


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U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS  
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ULLB, 3rd Floor  
Washington, D.C. 20536



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File: LIN 01 204 51586 Office: Nebraska Service Center Date: JAN 18 2002

IN RE: Petitioner:  
Beneficiary:



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

IN BEHALF OF PETITIONER:



PUBLIC COPY

INSTRUCTIONS:

This is the decision 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.

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 that 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Robert P. Wiemann, Director  
Administrative Appeals Office

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

The petitioner is the U.S. ski team. The beneficiary is a skiing coach. The petitioner seeks classification of the beneficiary under section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the "Act"), 8 U.S.C. 1101(a)(15)(O)(i), as an alien with extraordinary ability in athletics, in order to employ him in the United States as the Nordic Combined coach of the U.S. National ski team for a period of one year at a salary of \$30,000.

The director determined that the petitioner had not established that the beneficiary had risen to the "very top" of the field of ski coaching as required by 8 CFR 214.2(o)(3)(ii). The director further noted that the record did not contain a copy of the employment contract between the petitioner and the beneficiary, or a summary of the terms of the employment agreement.

On appeal, counsel argues that the petition should be approved.

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.

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)(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 director found that the beneficiary met criterion number seven, and no others. The beneficiary has won medals in both Olympic and World Championships. He competed in the Olympics in 1984 and 1988, and in World Championships in 1984 and 1985. He won medals in the

Finnish national championships in 1984, 1986, 1987, and 1989. From 1992 to 1996, he coached the Finnish national Nordic Combined team. Athletes coached by the beneficiary won the team competition in the 1999 World Championships. Until 1999 he worked at the Lapland's Sport Federation planning youth activities in the province of Lapland. Since then he has served as the project manager in a joint venture of the Finnish Skiing Association and Ministry of Labor, expanding Finnish sport clubs. He has been continuously involved in the field of sports and skiing for the past 20 years.

While the awards won by the beneficiary were for skiing rather than coaching, the beneficiary's subsequent success as a coach constitutes a continuation of his sustained acclaim in the field of skiing. An athletic team is not an "association," but membership in a team that competes exclusively at the national or international level can be considered comparable evidence if membership in such a team is the result of multi-level national competition, supervised by national experts, and if the team is considered to be at the top level of competitive teams.

While an athlete could not demonstrate extraordinary ability as a coach based solely on achievements as an athlete, this beneficiary's acclaim has continued from his successes in athletic competition into his coaching career. The beneficiary's acclaim has been sustained, as his accomplishments as an athlete were immediately followed by coaching world champions in top-level competition. He continues to be involved in skiing through his activities with the Finnish Skiing Association.

The petition states that the beneficiary will coach the U.S. National Ski Team in Olympic, World Cup, World Championship, and other national and international skiing events. It is clear that the beneficiary will continue work in his area of extraordinary ability. The beneficiary meets four of the evidentiary criteria at 8 CFR 214.2(o)(3)(iii)(B), and has adequately established the requisite sustained international acclaim for classification as an alien of extraordinary ability.

The record contains an itinerary of skiing competitions, a description of the beneficiary's specific duties, and a statement of the beneficiary's salary. The director denied the petition, in part, because the record did not contain an employment contract or a summary of the petitioner's employment agreement with the beneficiary. It appears that sufficient information has been provided so that the director could form an assessment of the nature of the duties the beneficiary is expected to perform in the United States. The basis for the director's finding that the information provided does not meet the requirements of 8 CFR 214.2(o)(2)(ii)(B) is not explained in the director's decision, and is not a valid basis for the denial of the petition. Therefore, this finding by the director is withdrawn.

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 met that burden.

**ORDER:** The appeal is sustained.