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U.S. Department of Justice  
Immigration and Naturalization Service

~~Continuation of the decision to  
prevent clearly unwarranted  
invasion of personal privacy~~

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



File: LIN-02-037-54495 Office: Nebraska Service Center Date: 12 MAR 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 a U.S. corporation operating a performance ice show. The beneficiary is a former competitive ice skater and general manager of the petitioner's ice show. The petitioner seeks extension of the beneficiary's O-1 visa classification in order to continue to employ him in the United States for a period of one year at a salary of \$69,000.

The director denied the petition finding that the petitioner failed to establish that the beneficiary had met the regulatory standard for an alien with extraordinary ability as a general manager.

On appeal, counsel for the petitioner argued, in part, that the decision ignored the nature of the position of being the general manager of a championship ice show.

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.

At issue in this matter is whether the petitioner has established that the beneficiary is eligible for extension of his O-1 visa classification, as an alien with extraordinary ability in athletics, to be employed in the proposed position of general manager of Champions on Ice.

8 C.F.R. 214.2(o)(1)(ii)(A) provides, in pertinent part, that O-1 classification applies to:

(1) An individual alien who has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and who is coming temporarily to the United States to continue work in the area of extraordinary ability.

In order to establish eligibility for O-1 classification, or extension of that classification, a petitioner must establish that the alien beneficiary has extraordinary ability in athletics and is coming temporarily to the United States to continue work in the area of extraordinary ability. 8 C.F.R. 214.2(o)(1)(ii)(A)(1).

In this case, the center director did not question the claim that the beneficiary has extraordinary ability in athletics as defined

at 8 C.F.R. 214.2(o)(3)(ii). The director's decision questions whether the position of serving as general manager of an ice show constitutes continuing work in the area of extraordinary ability.

The record in this matter clearly demonstrates that the beneficiary qualifies as an alien with extraordinary ability in athletics based on his career as a championship figure skater and ice dancer and based on the favorable consultation from the United States Figure Skating Association (USFSA). The proposed position with Champions on Ice is that of managing a year-round touring ice show that features the performance of the world's most renowned skaters including several Olympic medalists. The statements from the petitioner's counsel, individual championship performers in the show, and the USFSA all assert that the beneficiary's position managing a performance ice show of the petitioner's caliber significantly relies on the beneficiary's status as an athlete of extraordinary ability.

Upon a review of the record of proceeding, it may be concluded that the evidence of record is sufficient to establish eligibility for extension of O-1 classification. Contrary to the director's discussion, the standard to be met is whether the proposed position of general manger constitutes continuing work in the area of extraordinary ability in athletics, rather than a demonstration of having extraordinary ability as a general manager.

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 prior decision dated December 4, 2001 is withdrawn; the petition is approved.