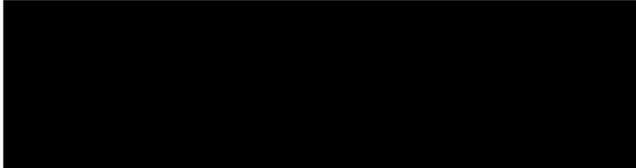


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U.S. Department of Homeland Security
Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N.W.
Washington, D.C. 20536



File: WAC 03 050 50290

Office: CALIFORNIA SERVICE CENTER

Date: DEC 11 2003

IN RE: Petitioner:
Beneficiaries:



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

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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 Citizenship and Immigration Services (CIS) 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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is an agent for athletes, seeking classification of the beneficiaries under section 101(a)(15)(P)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(P)(i), for a period of five years. The petitioner seeks to employ the beneficiaries temporarily in the United States as "Elite Athletes" to train and compete in athletic competitions.

In the decision, the director denied the petition finding that the petitioner failed to establish that the beneficiaries are internationally recognized as a unit, or that the beneficiaries, as a unit, will participate in athletic competitions that have a distinguished reputation and that require participation of an athlete or athletic team that has an international reputation. The director further found that the evidence is insufficient to demonstrate that the beneficiaries are internationally recognized athletes.

On appeal, the petitioner submits a statement and additional evidence.

Under section 101(a)(15)(P)(i) of the Act, an alien having a foreign residence which he or she has no intention of abandoning may be authorized to come to the United States temporarily to perform services for an employer or sponsor. Section 214(c)(4)(A) of the Act, 8 U.S.C. § 1184(c)(4)(A), provides that section 101(a)(15)(P)(i) of the Act applies to an alien who:

(i) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance, and

(ii) seeks to enter the United States temporarily and solely for the purpose of performing as such an athlete with respect to a specific athletic competition.

The regulation at 8 C.F.R. § 214.2(p)(1) states, in pertinent part:

(i) *General.* Under section 101(a)(15)(P) of the Act, an alien having a residence in a foreign country which he or she has no intention of abandoning may be authorized to come to the United States temporarily to perform services for an employer or a sponsor. Under this nonimmigrant category, the alien may be classified under section 101(a)(15)(P)(i) of the Act as an alien who is coming to the United States to perform services as an internationally recognized athlete, individually or as part of a group or team

The regulation at 8 C.F.R. § 214.2(p)(3) states that:

Internationally recognized means having a high level of achievement in a field evidenced by a degree of skill and recognition substantially above that ordinarily encountered, to the extent that such achievement is renowned, leading, or well-known in more than one country.

8 C.F.R. § 214.2(p)(4)(ii) sets forth the documentary requirements for P-1 athletes as:

(A) *General.* A P-1 athlete must have an internationally recognized reputation as an international athlete or he or she must be a member of a foreign team that is internationally recognized. The athlete or team must be coming to the United States to participate in an athletic competition which has a distinguished reputation and which requires participation of an athlete or athletic team that has an international reputation.

(B) *Evidentiary requirements* for an internationally recognized athlete or athletic team. A petition for an athletic team must be accompanied by evidence that the team as a unit has achieved international recognition in the sport. Each member of the team is accorded P-1

classification based on the international reputation of the team. A petition for an athlete who will compete individually or as a member of a U.S. team must be accompanied by evidence that the athlete has achieved international recognition in the sport based on his or her reputation. A petition for a P-1 athlete or athletic team shall include:

(1) A tendered contract with a major United States sports league or team, or a tendered contract in an individual sport commensurate with international recognition in that sport, if such contracts are normally executed in the sport, and

(2) Documentation of at least two of the following:

(i) Evidence of having participated to a significant extent in a prior season with a major United States sports league;

(ii) Evidence of having participated in international competition with a national team;

(iii) Evidence of having participated to a significant extent in a prior season for a U.S. college or university in intercollegiate competition;

(iv) A written statement from an official of a major U.S. sports league or an official of the governing body of the sport which details how the alien or team is internationally recognized;

(v) A written statement from a member of the sports media or a recognized expert in the sport which details how the alien or team is internationally recognized;

(vi) Evidence that the individual or team is ranked if the sport has international rankings; or

(vii) Evidence that the alien or team has received a significant honor or award in the sport.

After careful review of the record, it is determined that the petitioner failed to overcome the grounds for denial of the petition.

The first issue to be addressed in this proceeding is whether the petitioner established that the beneficiaries are internationally recognized as a unit. P-1 classification is available for aliens who are coming to the United States to perform services as internationally recognized athletes, individually or as part of a group or team. 8 C.F.R. § 214.2(p)(1)(i). In this instance, the petitioner filed one Form I-129 on behalf of four beneficiaries. The petitioner indicated that it intends to place all four of the beneficiaries on the team of World Running Management. According to the evidence in the record, the four beneficiaries have competed individually, rather than as a team or group, even though they have all belonged to the same athletic club for various lengths of time. The petitioner did not submit evidence that the beneficiaries have competed as a team. The petitioner failed to establish that the beneficiaries are internationally recognized as a unit.

The next issue to be addressed is whether the petitioner established that the beneficiaries are internationally recognized athletes in their own right. A petitioner may establish that a beneficiary is an internationally recognized athlete by demonstrating that the beneficiary meets at least two of the seven of criteria set forth at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2). In the instant case, the petitioner only submitted evidence in relation to criterion number seven. The petitioner failed to establish that any of the beneficiaries are internationally recognized athletes, either individually or as a team.

Another issue to be addressed in this proceeding is whether the petitioner established that the beneficiaries are coming to the United States to perform services that require internationally recognized athletes. According to the itinerary submitted by the petitioner, the beneficiaries would be coming to the United

States to participate in the following competitions: the Crim Festival, The Champion for Children, The Great Cow Harbor, the Fifth Avenue, the Chicago Marathon, the New York Marathon, the New Times 10K, the California International Marathon, and the Honolulu International Marathon, to name a few. The petitioner provided no evidence to establish that these competitions require internationally recognized athletes.

The petitioner failed to establish that the beneficiaries are coming to the United States to participate in athletic competitions that have a distinguished reputation, as required by 8 C.F.R. § 214.2(p)(4)(ii)(A). The petitioner submitted no evidence to establish that the events listed on the itinerary have distinguished reputations.

Finally, for the purpose of P-1 classification, the petitioner must show that the beneficiaries are "internationally recognized," e.g. having a high level of achievement in the sport, recognition substantially above that ordinarily encountered, and recognition as a leading athlete in more than one country. On review, the director's finding that this evidence is insufficient to establish the requisite level of international recognition must be affirmed.

The burden of proof in visa petition proceedings remains entirely 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.