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Bureau of Citizenship and Immigration Services

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

[Redacted]

File: LIN 03 109 51025 Office: NEBRASKA SERVICE CENTER

Date:

JUL 23 2005

IN RE: Petitioner:
Beneficiary:

[Redacted]

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:

[Redacted]

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 Bureau of Citizenship and Immigration Services (Bureau) 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
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Nebraska Service Center Director. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The petitioner is a professional soccer team. The beneficiary is a professional soccer player. The petitioner filed a Form I-129, Petition for a Nonimmigrant Worker, seeking classification of the beneficiary under section 101(a)(15)(P)(i) of the Immigration and Nationality Act (the Act). The petitioner seeks to employ the beneficiary temporarily in the United States for a period of one year as a professional soccer player.

The director denied the petition, finding that the record was insufficient to show that the petitioner's team plays at a major league level in the United States. The director further determined that the beneficiary does not qualify as an internationally recognized athlete.

On appeal, counsel for the petitioner submits a brief arguing that the director's decision was erroneous.

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.

8 C.F.R. § 214.2(p)(4)(ii)(B) states, in pertinent part, that a petition for a P-1 athlete shall include:

(1) A tendered contract with a major United States sports league or team

The petitioning soccer team is a member of the A-League of the United Soccer Leagues (USL). The first issue raised by the director in this matter is whether the petitioner qualifies as a major league team. In support of the appeal, counsel has submitted a letter dated April 3, 2003 from the Secretary General of the United States Soccer Federation (Federation), who states that the "A" League of the USL is considered a major league by the Federation. The letter states, in pertinent part, that:

The Federation is the national governing body for the sport of soccer in the United States as recognized by the Amateur Sports Act of 1978. More significantly, we are recognized by FIFA,¹ the world governing body for the sport of soccer. In our capacity as the national governing body for the sport of soccer, the Federation establishes, promulgates, and coordinates all rules and regulations relating to the sport of soccer in the United States. The Federation is responsible for overseeing the registration of players and teams, as well as the training and development of referees. Additionally, the Federation is solely responsible for review and approval of divisional standards and member compliance for all affiliated soccer leagues, including professional leagues, in the United States.

It is the position of the Federation that the A-League is "a major league" which in the past has been permitted to use P-1 work visas and which should be entitled to continue to use such visas in the future. . . .

The Federation recognized the A-League as one of the major soccer leagues in the United States for the following reasons:

- It has secured significant television contracts.
- It operates in major metropolitan markets in both the United States and Canada.
- It has commercial sponsorships from major international equipment manufacturers and athletic footwear companies.
- It has signed players of the highest caliber from the United States and from abroad.
- It has signed international athletes including World Cup, National Team and Olympic Team participants.

In addition to the Federation letter, the petitioner submitted evidence that it has secured a national television contract with Fox Sports International and operates in major metropolitan areas including Atlanta, Boston and Toronto. In review, the petitioner has established that it is a "major league team."

The second issue raised by the director in this case is whether the beneficiary qualifies as an "internationally recognized athlete."

8 C.F.R. § 214.2(p)(1)(ii)(A) provides for P-1 classification of an alien:

¹ Fédération Internationale de Football Association.

(1) To perform at specific athletic competition as an athlete, individually or as part of a group or team, at an internationally recognized level or performance...

8 C.F.R. § 214.2(p)(2)(ii) requires, in part, that a petition for an internationally recognized athlete include:

(A) The evidence specified in the specific section of this part for the classification;

(B) Copies of any written contracts between the petitioner and the alien beneficiary or, if there is no written contract, a summary of the terms of the oral agreement under which the alien(s) will be employed; and

(C) An explanation of the nature of the events or activities, the beginning and ending dates for the events and activities, and a copy of any itinerary for the events and activities.

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)(i)(A) provides, in pertinent part, that:

P-1 classification as an athlete in an individual capacity. A P-1 classification may be granted to an alien who is an internationally recognized athlete based on his or her own reputation and achievements as an individual. The alien must be coming to the United States to perform services which require an internationally recognized athlete.

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.

The petitioner submitted evidence that the beneficiary has a tendered contract with a major United States league team (the petitioner). The petitioner submitted evidence showing that the beneficiary has participated to a significant extent in prior seasons with several major United States sports league teams, including the Chicago Fire, member of Major League Soccer (MLS), and two USL A-League teams, the Indiana Blast and the Milwaukee Rampage. The petitioner submitted evidence that the beneficiary participated to a significant extent for a United States university (Indiana University) in intercollegiate competition. In review, the beneficiary satisfies the evidentiary requirements of 8 C.F.R. § 214.2(p)(4)(iii)(B)(1), (2)(i) and (iii).

8 C.F.R. § 214.2(p)(7)(i) requires, in pertinent part:

(A) Consultation with an appropriate labor organization regarding the nature of the work to be done and the alien's qualifications is mandatory before a petition for P-1, P-2, or P-3 classification can be approved.

The petitioner submitted a favorable consultation from the Executive Director of the United Soccer Leagues.

The petitioner has satisfied his burden of proof to establish the beneficiary's eligibility for P-1 classification.

ORDER: The appeal is sustained.