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

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



FILE: LIN 02 207 54234 Office: NEBRASKA SERVICE CENTER Date: **MAR 13 2003**

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

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

ON BEHALF OF PETITIONER:
[Redacted]

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 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, Director
Administrative Appeals Office

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

The petitioner, [REDACTED] is the National Governing Body of the United States Olympic Committee and is the official organization for sport skiing in the United States. The [REDACTED] is a part of the U.S. Ski and Snowboard Association. The beneficiary is a former technician for a ski manufacturer [REDACTED] and the Slovenian National Women's Ski Team. The beneficiary also provided technical ski coaching to the Norwegian Women's Ski Team and the Swedish Junior Women's Ski Team. The petitioner seeks O-1 classification of the beneficiary, as an alien with extraordinary ability in athletics under section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the Act), in order to employ him in the United States as the men's alpine ski team World Cup coach, an equipment evaluator and master ski technician for the United States National Ski Team for a period of three years at an annual salary of \$36,000.

The director denied the petition finding that the petitioner failed to establish that the beneficiary qualifies as an alien with extraordinary ability in athletics.

On appeal, counsel for the petitioner submits a statement and additional documentation in the form of letters from the U.S. Olympic Committee's director of government relations, the director of the Slovenia Ski Federation, and employees of the Fischer factory, the Élan Ski Company, and the Rossignol Racing Service. The letters state that the beneficiary prepared skis for Bode Miller of the United States National Ski Team.

Section 101(a)(15)(O)(i) of 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.

8 C.F.R. § 214.2(o)(5)(i)(A) requires, in pertinent part:

Consultation with an appropriate U.S. peer group (which could include a person or persons with expertise in the field), labor and/or management organization regarding the nature of the work to be done and the alien's qualifications is mandatory before a petition for O-1 or O-2 classification can be approved.

The beneficiary in this matter is a citizen of Slovenia. The record shows that the beneficiary has spent the last seven years preparing skis for alpine ski racing competitors, including [REDACTED] a member of the United States National Ski Team.

The director noted that the petitioner is seeking O-1 classification of the beneficiary in order to employ him as a coach, and ski technician, yet the preponderance of the evidence on the record indicates that the beneficiary has been working as a ski technician, rather than as a ski coach. The director also noted that the petitioner relied solely on testimonials to establish the beneficiary's eligibility and that the testimonials indicate that the beneficiary is a competent technician in evaluating and preparing ski equipment. The director said that in the absence of verifiable and objective evidence of sustained national or international acclaim, the evidence was insufficient to demonstrate that the beneficiary is among that small percentage that have risen to the very top of their field.

On appeal, counsel asserts that the criteria set out in 8 C.F.R. § 214.2(o)(iii)(B) are inapplicable to a ski technician and submits comparable evidence to establish the beneficiary's eligibility pursuant to 8 C.F.R. § 214.2(o)(3)(iv)(C).

The AAO concurs that the standard criteria outlined under 8 C.F.R. § 214.2(o)(3)(iii)(A) and (B) do not readily apply to the position of ski technician. After a careful review of the record, it must be concluded that the petitioner has failed to overcome the grounds for denial of the petition. The record is insufficient to establish that the beneficiary is an alien with extraordinary ability as a ski technician or ski coach.

The evidence on the record consists solely of testimonials. While this evidence would bolster other evidence of extraordinary ability, the record contains no firsthand evidence of coaching or technical achievements by the beneficiary or by athletes he has coached or assisted. This evidence is insufficient, without more, to establish eligibility for this restrictive visa classification, which requires extensive documentation of extraordinary achievement.

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.