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

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

PUBLIC COPY



File: LIN 99 028 50810 Office: NEBRASKA SERVICE CENTER Date:

MAR 31 2003

IN RE: Petitioner: [Redacted]
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]

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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 approved by the Nebraska Service Center director, who then revoked the approval. The petitioner appealed the director's decision to revoke the approval of the petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a soccer club. The beneficiary is described as a professional¹ 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), 8 U.S.C. § 1101(a)(15)(P)(i), for a period of three years. The petitioner seeks to employ the beneficiary in the United States as a soccer player at an annual salary of \$29,000.

The director revoked approval of the petition, finding that the initial petition was erroneously approved under the belief that the petitioner was a team in Major League Soccer.

On appeal, counsel for the petitioner submits a brief statement of the reasons for the appeal and stated that a brief would be filed within 30 days of the appeal. More than one year has lapsed since the date of the appeal, and a brief has not been submitted to the Bureau.

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)(1)(i) provides for P-1 classification of an alien:

General. Under section 101(a)(15)(P) of the Act, an

¹ The term professional when applied to P-1 athletes means a person who derives his livelihood from athletic activity. The term *professional athlete* as defined at section 204(i)(2) of the Act and the term *professional* set forth at section 203(b)(3)(A)(ii) and 101(a)(32) of the Act are not applicable in the P-1 context.

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...

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

(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)(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 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.

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 sole issue raised by the director is whether the beneficiary has a contract with a major United States sports league or team as required by 8 C.F.R. § 214.2(p)(4)(ii)(B)(1).

The petitioner has a contract with the beneficiary. The petitioner is a member of the United Systems of Independent Soccer League (USISL), participating in the Premier Development League. According to the evidence on the record, the USISL provides the starting point for players working toward "Major League Soccer," the top professional level, or Division I level in the United States. The petitioner's league is described as "the top national amateur league in the United States," and is ranked below the "Major League," the "A-League," and the "Professional League." In review, the petitioner has failed to establish that the beneficiary has a contract with a major United States sports league or team.

Beyond the decision of the director, the petitioner has not established that the beneficiary will compete at an internationally recognized level. 8 C.F.R. § 214.2(p)(1)(ii)(A). Since the appeal will be dismissed for the reasons stated above, this issue need not be examined further.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed.