

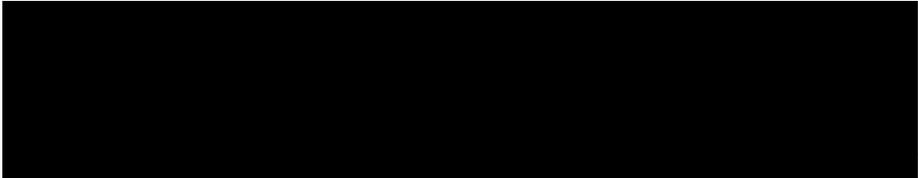
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U.S. Citizenship
and Immigration
Services

D8



FILE: EAC 03 206 53312 Office: VERMONT SERVICE CENTER

Date: FEB 11 2004

IN RE: Petitioner:
Beneficiary:



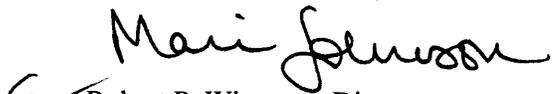
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(O)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(O)(i)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.


Robert P. Wiemann, Director
Administrative Appeals Office

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

The petitioner, a private college, is seeking 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), 8 U.S.C. § 1101(a)(15)(O)(i), in order to employ him in the United States as an assistant coach to the petitioner's NCAA Division I Collegiate field hockey team for a period of three years at an annual salary of \$33,440.

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 nine-page statement and additional documentation.

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 27-year old native and citizen of the United Kingdom. The record shows that the beneficiary began his coaching career in England, where he coached youth¹ during a three-year period at the [REDACTED]. According to the evidence on the record, the beneficiary helped the under age 16 and under age 18 teams to win regional and state titles and helped to guide the under age 16 team to the National Championship game. The beneficiary has been most recently employed by the petitioner as an assistant field hockey coach. While in the United States, the beneficiary was selected by the United States Field Hockey Association to serve in the capacity of assistant coach for both the Junior Women's Under 20 National Team and the Senior Women's National Team. The beneficiary personally trained Jessica Coleman, a member of the Senior Women's National Team.

The director noted that the evidence was insufficient to demonstrate that the beneficiary is among that small percentage who have risen to the very top of their field.

¹ He coached the "U9's, U16's and U18's" or the Under 9's, Under 16's and Under 18-year olds.

On appeal, counsel for the petitioner asserts that the beneficiary satisfies all eight criteria set out in 8 C.F.R. § 214.2(o)(3)(iii)(B).

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 field hockey coach.

First, there is no evidence that the beneficiary has received an award equivalent to that listed at 8 C.F.R. § 214.2(o)(3)(iii)(A). Nor is the record persuasive in demonstrating that the beneficiary meets at least three of the criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B).

For criterion number one, the petitioner asserts that the beneficiary satisfies the criterion because he received the following awards:

- A Master's Coaching Certificate for completion of an International Hockey Federation (FIH) sponsored Performance Coaching Course in 2002.
- A Hockey Coach Level One Award.
- A Hockey Coach Level Two Award.

The petitioner failed to establish that the selection for and completion of a coaching course is an award or prize. The petitioner failed to establish that the Hockey Coach Levels one and two awards are nationally or internationally recognized awards for excellence in the beneficiary's field of endeavor.

The petitioner provided evidence that the beneficiary, as a coach, was instrumental in the success of one high performer, namely [REDACTED]. According to one testimonial's author, the United States Field Hockey Association (USFHA) selected the beneficiary to teach Jessica Coleman the "drag flick" technique.² [REDACTED] subsequently chosen for the United States Senior National Team, stated that the beneficiary is solely responsible for the team's success using the drag flick.

The evidence is insufficient to establish that the beneficiary satisfies criterion number one.

For criterion number two, the petitioner initially asserted that the beneficiary's receipt of the FIH Master Coach's certificate "made [the beneficiary] a member in an elite association of coaches that require outstanding achievements of its members." Simply going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

On appeal, the petitioner asserts that the beneficiary is a member of a de facto association of National Team coaches of Olympic-caliber field hockey players. The petitioner failed to establish that this is, in fact, an association. The beneficiary does not satisfy this criterion.

² The petitioner defined the "drag flick" as follows: "one of the most effective and enviable penalty corner skills, the drag flick allows the shooter to generate most of the power of a full hit while allowing an option of drilling the ball along the ground or lifting the powerful shot into the top of the net. The skill can be difficult to master, and the resulting shot can be difficult to defend."

For criterion number three, the petitioner submitted the following:

- A June 22, 2003 United States Field Hockey Association press release titled "U.S. Field [REDACTED] 8-1."
- Three press releases from the petitioner, Dartmouth College, about the beneficiary.

The first item is about the U.S. Women's Field Hockey Team and team member Jessica Coleman's performance. Jessica Coleman is quoted as crediting the beneficiary for helping her to master the "drag flick" technique.

The three Dartmouth press releases are about the alien, but they are insufficient evidence of national or international acclaim. The petitioner failed to submit evidence that these press releases were published in professional or major trade publications or other major media. Press releases about the beneficiary issued by the petitioner do not constitute published material under the regulation. The evidence on the record does not satisfy this criterion.

For criterion number four, the petitioner asserts that the beneficiary satisfies this criterion by virtue of his coaching experience. As a coach and an instructor, the beneficiary was not judging the work of experienced professionals in the field, but was performing his job. Further, in order to fulfill the regulatory criterion, the petitioner must establish that the beneficiary's selection to judge the work of others is indicative of his national or international acclaim. The petitioner failed to establish that the beneficiary was chosen to judge the work of others in his field on the basis of his acclaim.

For criterion number five, the petitioner asserts that the beneficiary is widely regarded as an authority on the "drag flick" technique employed in field hockey. The evidence on the record indicates that the drag flick technique did not originate with the beneficiary. See letter of [REDACTED] U.S. National Team player, indicating that the drag flick is a skill that is widely used on the international stage. The petitioner failed to establish that the beneficiary has made an original contribution of major significance in his field of endeavor.

For criterion number six, the beneficiary has written a detailed paper on how to perform the drag flick technique. There is no evidence in the record to show that the beneficiary's paper has ever been published. The beneficiary's paper does not satisfy this criterion.

For criterion number seven, the petitioner asserts that the beneficiary satisfies this criterion because he served in a critical capacity for a distinguished organization, namely, the U.S. National Hockey Team. According to the evidence, the beneficiary worked with U.S. National Team member [REDACTED] for two months and was selected to serve as an assistant coach with the U.S. under-20 national field hockey team. See press releases.³ The petitioner failed to submit corroborating evidence in the form of media coverage to establish that the beneficiary played a critical role for the U.S. under-20 national field hockey team. The petitioner failed to establish that [REDACTED] and the U.S. under-20 national field hockey teams are organizations and establishments that have a distinguished reputation. The evidence is insufficient to show that the beneficiary has sustained national or international acclaim.

³ The press releases are undated.

For criterion number eight, the petitioner asserts that the proffered wage is "more than twice the prevailing wage according to the local Employment Commission in New Hampshire." The petitioner submitted a prevailing wage determination for the position of assistant field hockey coach/field hockey instructor. The survey submitted is geographically too restrictive. This criterion must be indicative of *national* acclaim in the field. The petitioner has offered to pay the beneficiary an annual salary of \$33,440. The petitioner should have submitted wage survey information for all assistant field hockey coaches/instructors on a nationwide basis. The petitioner should have provided more than just the prevailing wage. To evaluate whether the salary is high, CIS must compare it to the median and highest wages offered nationwide to assistant field hockey coaches/instructors. The beneficiary does not satisfy this criterion.

The extraordinary ability provisions of this visa classification are intended to be highly restrictive. *See* 137 Cong. Rec. S18247 (daily ed., Nov. 16, 1991). In order to establish eligibility for extraordinary ability, the statute requires evidence of "sustained national or international acclaim" and evidence that the alien's achievements have been recognized in the field of endeavor through "extensive documentation." The petitioner has not established that the beneficiary's abilities have been so recognized.

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.