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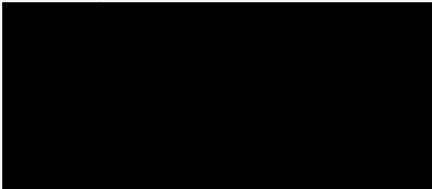
FILE: LIN 04 156 52532 Office: NEBRASKA SERVICE CENTER Date: JUL 11 2005

IN RE: Petitioner:
Beneficiary:



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:



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, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a nonprofit corporation providing figure skating training. 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), 8 U.S.C. § 1101(a)(15)(O)(i), in order to employ her in the United States as an assistant coach for a period of two years at an annual salary of \$25,125.

The director denied the petition, finding that the petitioner failed to establish that the beneficiary meets the requirements of 8 C.F.R. § 214.2(o)(3)(iii) to qualify as an O-1 alien of extraordinary ability. The director further noted that although the petitioner sought to amend the job title from assistant coach to performer, the record of proceeding establishes that the petitioner seeks the services of the beneficiary as a coach, rather than as a performer.

On appeal, counsel for the petitioner submits a brief and additional evidence.

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.

The regulation at 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.

The regulation at 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.

The beneficiary in this matter is a 20-year old native and citizen of Ukraine. According to the evidence in the record, the beneficiary has resided in the United States since 1997, and is currently working for the petitioning organization, but no information was provided as to her current visa classification, if any.

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 in athletics.

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 met at least three of the criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B).

Documentation of the alien's receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

The petitioner provided Citizenship and Immigration Services (CIS) with copies of the beneficiary's awards with translations, as follows:

1. Third place in the International Tournament in Figure Skating, Regional Federation of Figure Skating.¹
2. First place in the regional competition in figure skating - junior ladies, sponsored by the Ukrainian National Committee of Physical Culture and Sports. (1994)
3. First Prize in the All Ukrainian Championship – young ladies' individual figure skating (Kiev, 1995).
4. First place in the First Odessa Regional Winter Games in Figure Skating – junior ladies' individual skating (Odessa, 1996).
5. First place in the First Winter Games – junior ladies' program of master of sports nominee (Odessa, 1996).
6. First place during the Regional Championship among junior ladies, sponsored by the Specialized Youth Sports School of Olympic Fund on Figure Skating of the Odessa Regional Sports Committee (Odessa, 1996).
7. First place in the Championship of Ukraine – junior ladies, sponsored by the Specialized Youth Sports School of Olympic Fund on Figure Skating of the Odessa Regional Sports Committee (Odessa, 1996).
8. First place in the First Winter Games – junior ladies, sponsored by the Specialized Youth Sports School of Olympic Fund on Figure Skating of the Odessa Regional Sports Committee (Odessa, 1996).
9. First Place in the open regional championship – junior ladies. (Odessa, 1997)
10. First place in the City Championship – junior ladies. (Odessa, 1997)
11. Second place in the All Ukrainian Competition of young female figure skaters (Kiev, 1997).
12. Second place during the regional championship – junior ladies, sponsored by the Odessa Regional Sports Committee. (Odessa, 1997)
13. Third place in the Championship for the Cup of the Ukraine – junior ladies, sponsored by the specialized youth sports school of Olympic Fund on figure skating of the Odessa Regional Sports Committee (Odessa, 1997).

¹ No date or place of issue was evident on the award.

The petitioner submitted the beneficiary's resume to CIS, which lists the following competitions:

1998: Wissahickon Junior Nationals Qualifying Round, Cherry Blossom Junior Level.

1996: National Junior Champion of Ukraine

1995: Second Place on Warsaw European Criterium Competition.
Second Place on Ukraine Champion.

1994: First Place on Ukraine Champion.
First Place on Krakov, Poland.

1993: First Place Petrenko International Award.
Second Place on Ukraine Champion.
First Place Brno European Criterium.
Third Place Cejje Slovenia.
First Place Warsaw European Criterium.

1992: First Place Open Finland.

The petitioner also submitted a letter written by her coach, Valentin Nikolayev, that states that the beneficiary has won fifteen gold, seven silver, and five bronze medals while skating at national and international competitions.

In review, the petitioner has failed to establish the significance of these awards. It is further noted that the beneficiary has not won an award since 1998, approximately six years ago. An alien of extraordinary ability must demonstrate sustained acclaim. The petitioner failed to establish that the beneficiary has continuously won competitions. The beneficiary does not satisfy this criterion.

Documentation of the alien's membership in associations in the field for which classifications sought, which require outstanding achievements of their members, as judged by recognized national or international expert in their disciplines or fields.

Initially, the petitioner did not submit evidence relating to this criterion. In response to the director's request for additional evidence, the petitioner submitted to CIS an undated letter from [REDACTED], Vice President, Ukrainian Figure Skating Federation, which states that the beneficiary is "a leading skater of the National Ukrainian team in Figure Skating. Since 1997 she has been living in USA . . . with . . . her coach." The petitioner failed to submit evidence establishing that the National Ukrainian Figure Skating team requires outstanding achievements of their team members. The record contains scant evidence to establish that the beneficiary has skated as a member of the National Ukrainian Figure Skating team. The beneficiary does not satisfy this criterion.

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.

The petitioner submitted a partial translation of an article titled "The Figure Skaters from Odessa were Beyond Competition," published in the *Verchernyaya Odessa* newspaper on April 23, 1996. The petitioner failed to submit evidence of the newspaper's circulation so the AAO cannot determine whether the article was published in major media.

The record also contains a copy of an advertisement for a news program, which features the beneficiary's picture adjacent to the following text: "What are your plans for the year 2002? This thirteen year old knows. It's a dream she works on everyday right here in Richmond. She's one of Ukraine's top prospects for the 2002 Winter Olympic Games in Salt Lake City."

The record indicates that the beneficiary began skating at the age of 4 and began winning competitions at the age of 8. She is now 20-years old. The petitioner submitted scant media coverage of the beneficiary's skating career. This evidence is insufficient, without more, to establish eligibility for this restrictive visa classification, which requires extensive documentation of extraordinary achievement. The beneficiary does not satisfy this criterion.

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of the field of endeavor. Review of the record, however, does not establish that the petitioner has achieved sustained national or international acclaim or to be within the small percentage at the very top of the field of figure skating coaching. The evidence indicates that the petitioner earned national acclaim as a junior figure skater, but that she has not won any competitions in the past six years. While she entered the field of coaching so close to the filing date that there was simply no opportunity for the petitioner to establish any reputation as a coach, let alone earn sustained national or international acclaim. Therefore, the petitioner has not established eligibility pursuant to section 101(a)(15)(O)(i) of the Act and the petition may not be approved.

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.

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