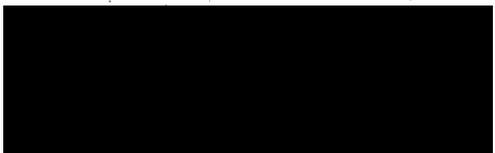




U.S. Citizenship
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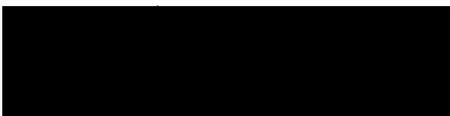
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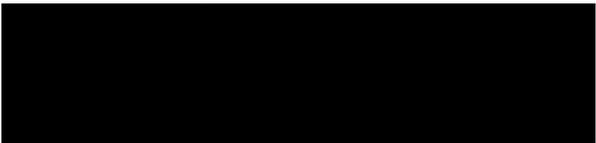
FILE: SRC 05 075 50527 Office: TEXAS SERVICE CENTER Date: FEB 24 2006

IN RE: Petitioner:
Beneficiary:



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:



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

Robert P. Wiemann, Director
Administrative Appeals Office

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

The petitioner is a horse breeder and trainer, 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 five years. The petitioner seeks to employ the beneficiary temporarily in the United States as a horse trainer/show exhibitor.

The director denied the petition, in part, finding that the petitioner failed to establish that the beneficiary is internationally recognized. The director denied the petition, in part, finding that the petitioner failed to establish that the beneficiary was coming to the United States to participate in an athletic competition that requires the participation of an athlete who has an international reputation.

On appeal, the petitioner submits a statement and additional evidence.

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.

The regulation at 8 C.F.R. § 214.2(p)(1) states, in pertinent part:

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

The regulation at 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.

The regulation at 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.

After careful review of the record, it is determined that the petitioner failed to overcome the grounds for denial of the petition.

The first issue to be addressed in this proceeding is whether the petitioner established that the beneficiary is internationally recognized. A petitioner may establish that a beneficiary is an internationally recognized athlete by demonstrating that the beneficiary meets at least two of the seven of criteria set forth at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2). The petitioner has submitted evidence that, it claims, meets the following criteria:¹

Evidence of having participated in international competition with a national team.

¹ The petitioner does not claim to meet or submit evidence relating to the criteria not discussed in this decision.

For criterion number two, the petitioner submitted a letter dated October 26, 2004, written by [REDACTED] Director of Shows and Performance Department Head of the [REDACTED] [REDACTED] stating that the beneficiary competed at the 2002 World Championship Paint Horse Show as a member of the Australian youth team.

The petitioner submitted a letter dated February 14, 2001 [sic] from [REDACTED] Office Manager of the Paint Horse Association of [REDACTED] indicating that the beneficiary competed at the [REDACTED] World Championship show in Fort Worth, Texas in June 2002.

The petitioner submitted a statement written by the beneficiary in which she indicates that she was a member of the Australian PHAA Youth Team that traveled to the United States to compete at the 2002 APHA World Show in Fort Worth, Texas.

The record contains an article captioned "Clarence Rider Chosen as Equine Ambassador." The record contains two additional items similar in content but since the name and date of publications were not provided, these three items will not be considered.

The petitioner submitted an article written by the beneficiary reporting on her trip to the 2002 World Show. The article was published in the December 2002 edition of the *Paint Horse Australia Journal*.

The evidence is sufficient to establish that the beneficiary participated in one international competition with a national youth team. The beneficiary satisfies this criterion.

A written statement from an official of the governing body of the sport which details how the alien . . . is internationally recognized.

For criterion number four, the petitioner submitted a letter dated October 26, 2004 from [REDACTED] Director of Shows for the [REDACTED] stating that the beneficiary competed at the 2002 World Championship Paint Horse Show and that the beneficiary would have the ability and background to compete in [REDACTED] approved shows and the World Championship Paint Horse Show. This letter is not sufficient because it fails to detail how the beneficiary is internationally recognized.

On appeal, counsel for the petitioner asserts that a supplementary letter from [REDACTED] dated August 25, 2005 states that the World Championship Show is an international competition and that the beneficiary is an international competitor. This letter falls short of establishing that the beneficiary is internationally recognized. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaighena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Further, the supplementary letter is not in the record. The petitioner has not established that the beneficiary meets this criterion.

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.

The petitioner did not submit a statement from a member of the sports media. The petitioner submitted letters written by two experts in the sport, including [REDACTED] whose letters are discussed above. The petitioner submitted letters written by [REDACTED] that states that she is the office manager of the Paint

Horse Association of Australia (PHAA) and an accredited judge.² She states that she accompanied the beneficiary to Texas in June 2002 as a chaperone at the World Championship Competition. Ms. [REDACTED] wrote that the beneficiary has won "numerous prestigious awards with her horses," but failed to assert, let alone establish, that the beneficiary is internationally recognized.

Evidence that the alien or team has received a significant honor or award in the sport.

Counsel for the petitioner did not assert that the beneficiary satisfied this criterion, however, the petitioner submitted evidence of the beneficiary's receipt of numerous awards, including, inter alia, the following:

- High Point Youth of Australia, PHAA, 2001-2002.
- Superior All-Around Youth Award, PHAA.
- Sports Star of the Week Award, *The Daily Examiner*, December 23, 1999.
- Second Place Nationally in the 1999 PHAA Hi-Point Youth Championship.
- Grafton Pony Club Certificate of Appreciation.
- Top Ten Youth of Australia, PHAA, 2001-2002.
- Top Ten Youth of Australia, PHAA, 2000-2001.
- Runner-up High Point Youth of Australia, PHAA, 1999-2000.

The petitioner failed to establish the significance of these awards, hence, failed to establish that the beneficiary satisfies this criterion.

The petitioner failed to establish that the beneficiary satisfies at least two of the above criterion. Therefore, the petitioner has failed to establish that the beneficiary is internationally recognized.

The second issue to be addressed in this proceeding is whether the petitioner established that the beneficiary is coming to the United States to participate in an athletic competition that requires the participation of an internationally recognized athlete.

According to the itinerary submitted by the petitioner, the beneficiary would be coming to the United States to participate in the following competitions: the American Paint Horse Association 2005 show calendar and the American Quarter Horse Association show schedules. The petitioner provided no evidence to establish that these competitions require internationally recognized athletes; hence, failed to overcome this objection of the director to approving the petition.

Finally, for the purpose of P-1 classification, the petitioner must show that the beneficiaries are "internationally recognized," e.g., having a high level of achievement in the sport, recognition substantially

² Counsel for the petitioner indicated that Ms. [REDACTED] was writing on behalf of the PHAA. However, her letter was written on personal letterhead rather than PHAA letterhead, so it is not established that she was writing in an official capacity.

above that ordinarily encountered, and recognition as a leading athlete in more than one country. On review, the director's finding that this evidence is insufficient to establish the requisite level of international recognition must be affirmed.

The burden of proof in visa petition proceedings remains entirely 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.