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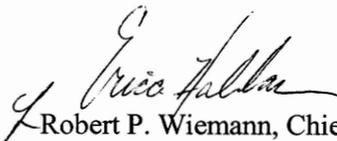
FILE: WAC 06 182 53899 Office: CALIFORNIA SERVICE CENTER Date: **AUG 01 2008**

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]

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, Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the nonimmigrant visa petition in a decision dated January 5, 2007. The petitioner appealed the director's decision to deny the petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is engaged in horse racing. 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 approximately 3 years. The petitioner seeks to employ the beneficiary temporarily in the United States as essential support personnel, namely, as a groomer/trainer, for a professional jockey.

The director denied the petition, finding that the petitioner failed to establish that the beneficiary has the requisite prior experience with or is essential to the performance of the principal athlete. Specifically, the director noted that the principal athlete is currently employed with an unrelated employer under a P-1 petition valid through April 30, 2009, and that the petitioner provided no evidence that the beneficiary has been or is currently employed by the principal athlete, thereby failing to establish the requisite prior experience. The director further noted that the petitioner did not provide evidence that it has filed a petition on behalf of the P-1 athlete to whom the beneficiary would provide essential support services.

The regulation at 8 C.F.R. § 214.2(p)(4)(iv)(A) provides that an essential support alien may be granted P-1 classification based on a support relationship with an individual P-1 athlete, P-1 athletic team, or a P-1 entertainment group.

Moreover, the regulation at 8 C.F.R. § 214.2(p)(4)(iv)(B) provides that a P-1 petition for an essential support alien must be accompanied by:

- (1) A consultation from a labor organization with expertise in the area of the alien's skill;
- (2) A statement describing the alien(s) prior essentiality, critical skills, and experience with the principal alien(s); and
- (3) A copy of the written contract or a summary of the terms of the oral agreement between the alien(s) and the employer.

On appeal, counsel for the petitioner indicated on Form I-290B that it would submit a brief and/or additional evidence to address the director's denial within thirty days. In a letter dated March 1, 2007, counsel requested an oral argument and provided the following statement in support of the necessity of the oral argument:

1. No further evidentiary material is available to the petitioner.
2. Petitioner's appeal is based on certain interpretation of the relevant provision of the Immigration and Nationality Act ("INA") and Title 8, Code of Federal Regulations ("8 C.F.R."). Specifically the oral argument is intended to demonstrate that

- a. Under 8 C.F.R. 214.2(P)(2)(I) it is possible for professional Jockeys and their essential support personel [sic] to work on behalf of more than one employer.
- b. The evidence is sufficient to establish that the beneficiary has the requisite prior experience to connect the P-1 and the P-1S visa in this case.

The AAO will first address the request for oral argument. The regulations provide that the requesting party must explain in writing why oral argument is necessary. Furthermore, Citizenship and Immigration Services has the sole authority to grant or deny a request for oral argument and will grant argument only in cases involving unique factors or issues of law that cannot be adequately addressed in writing. See 8 C.F.R. § 103.3(b). In this instance, counsel identified no unique factors or issues of law to be resolved. In fact, counsel set forth no specific reasons why oral argument should be held, other than the claim that it is possible for professional jockeys and their support staff to work on behalf of more than one employer. Moreover, the written record of proceedings fully represents the facts and issues in this matter. Consequently, the request for oral argument is denied.

Turning to the appeal now before the AAO, it is concluded that counsel's brief statement fails to adequately address the director's conclusions. The director provided a detailed analysis and specifically cited the deficiencies in the evidence in the course of the denial. Counsel's general objection in the March 1, 2007 letter, without specifically identifying any errors on the part of the director, is simply insufficient to overcome the well-founded and logical conclusions the director reached based on the evidence submitted by the petitioner. Counsel's unsupported contention that "the evidence is sufficient to establish that the beneficiary has the requisite prior experience to connect the P-1 and the P-1S visa in this case" is not persuasive and fails to overcome the reasons stated for the denial. 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 Obaigbena*, 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).

The issue on appeal is whether the petitioner provided evidence of the beneficiary's prior essentiality, critical skills, and experience with the principal alien as required by 8 C.F.R. 214.2(p)(4)(iv)(B)(2), and whether the petitioner established that the beneficiary would be providing essential support services to a P-1 athlete under an approved petition. The petitioner was afforded the opportunity to provide such evidence in response to the request for evidence, and again on appeal, yet failed to do so. Failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. 8 C.F.R. § 103.2(b)(14).

As stated above, absent a clear statement, brief and/or evidence to the contrary, counsel for the petitioner does not identify, specifically, an erroneous conclusion of law or statement of fact. Hence, the appeal must be summarily dismissed. See 8 C.F.R. § 103.3(a)(1)(v).

Regulations at 8 C.F.R. § 103.3(a)(1)(v) state, in pertinent part:

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

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. Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the petitioner has not sustained that burden. Therefore, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.