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**U.S. Citizenship
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FILE: WAC 04 096 50482 Office: CALIFORNIA SERVICE CENTER Date: **JAN 11 2006**

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

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.

Maig Jensen

S Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability in athletics. The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability. The director also found that the petitioner had not submitted evidence showing he is coming to the United States to continue work in his area of expertise. The director also concluded that the petitioner had not shown his entry into the United States would substantially benefit prospectively the United States.

Section 203(b) of the Act states, in pertinent part, that:

(1) Priority Workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with Extraordinary Ability. -- An alien is described in this subparagraph if --

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry to the United States will substantially benefit prospectively the United States.

As used in this section, the term "extraordinary ability" means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the regulation at 8 C.F.R. § 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that he has earned sustained national or international acclaim at the very top level.

This petition, filed on February 20, 2004, seeks to classify the petitioner as an alien with extraordinary ability as a Baseball Scout.

The regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, international recognized award). Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. The petitioner has submitted evidence pertaining to the following criteria.

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

The petitioner submitted a letter [REDACTED] Chief, Baseball Desk, *Sports Seoul*, who states:

Sports Seoul founded the Annual Award for Korea's professional baseball league. This award may be better understood as the Korean equivalent of the annual awards given out by the *Sporting News* in the U.S.

Among various entries of the Annual Award, The Front of the Year is selected among over 500 administrative executives including presidents, executive directors, and scouts of each professional baseball team. Sports reporters, baseball fans, newspaper subscribers vote to select the individual to be awarded. In 1993, [the petitioner] was selected to be the first Front of the Year award recipient as he had proven himself several times as the best scout.

Further evidence in the record demonstrates the national significance of this award.

At the bottom of page two, the director's decision erroneously discusses the petitioner's evidence as it relates to "the major international prize criterion" rather than the less restrictive standard set forth at 8 C.F.R. § 204.5(h)(3)(i). We withdraw the director's finding. While the regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, internationally recognized award), an award of that magnitude is not required under the criterion at 8 C.F.R. § 204.5(h)(3)(i); evidence of a nationally recognized award is sufficient. The director cannot impose a higher standard under this criterion by requiring receipt of a major, international award such as a Nobel Prize, Olympic Gold Medal, or Academy Award. We find that the documentation presented by the petitioner, which shows that his award enjoys substantial national recognition, is adequate to fulfill this criterion.

Published materials about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.

In order for published material to meet this criterion, it must be primarily about the petitioner and, as stated in the regulations, be printed in professional or major trade publications or other major media. To qualify as major media, the publication should have significant national or international distribution. An alien would not earn acclaim at the national or international level from a local publication. Some newspapers, such as the *New York Times*, nominally serve a particular locality but would qualify as major media because of significant national distribution, unlike small local community papers.¹

¹ Even with nationally-circulated newspapers, consideration must be given to the placement of the article. For example, an article that appears in the *Washington Post*, but in a section that is distributed only in Fairfax County, Virginia, cannot serve to spread an individual's reputation outside of that county.

The petitioner submitted various articles originating from newspapers published in Korea. These articles were accompanied by incomplete translations consisting of only a few brief sentences. Pursuant to 8 C.F.R. § 103.2(b)(3), however, any document containing foreign language submitted to Citizenship and Immigration Services (CIS) shall be accompanied by a full English language translation that the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English. The summary translations accompanying the Korean newspaper articles were not individually certified or accompanied by a full English language translation as required by the regulation. Without complete translations, it cannot be determined if the petitioner himself was the primary subject of the published material. The petitioner's appellate submission does not address the director's observation that he failed to submit proper translations of these articles.

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

On appeal, counsel states: "The petitioner has made contributions of major significance in the field of Korea baseball league by recruiting foreign baseball players to the Korea National Baseball league teams despite the league's initial opposition to foreign players." Counsel, however, fails to identify specific evidence in the record that supports this claim. 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).

Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.

The petitioner submitted letters from official representatives of the following Korean professional baseball teams: Samsung Lions (his immediate employer), SK Wyverns, and Hyundai Unicorns. While these letters indicate that the petitioner earns a higher salary than the seven other scouts employed by these professional baseball teams, this evidence falls short in demonstrating that he earns a level of compensation significantly higher than that of others in his field. The petitioner's basis for comparison is flawed because its scope is too narrow. The petitioner's limited comparison excludes salary data from the majority of the teams in the Korean professional baseball league. Without comprehensive statistical evidence showing that the petitioner's salary places him among the highest paid scouts throughout the entire Korean professional baseball league, we cannot conclude that he meets this criterion.

In this case, we concur with the director's finding that the petitioner has failed to demonstrate he meets at least three of the criteria that must be satisfied to establish the sustained national or international acclaim necessary to qualify as an alien of extraordinary ability. Review of the record does not establish that the petitioner has distinguished himself to such an extent that he may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of his field. The evidence is not persuasive that the petitioner's achievements set him significantly above almost all others in his field at the national or international level.

The director's decision also noted that the petitioner had not submitted evidence showing he "is coming to the United States to continue work in the area of expertise." The regulation at 8 C.F.R. § 204.5(h)(5) requires

“clear evidence that the alien is coming to the United States to continue work in the area of expertise. Such evidence may include letter(s) from prospective employer(s), evidence of prearranged commitments such as contracts, or a statement from the beneficiary detailing plans on how he or she intends to continue his or her work in the United States.” The record includes no such evidence. The petitioner’s appellate submission fails to address the director’s finding in this regard.

The director’s decision also concluded that the petitioner had not shown his “entry into the United States will substantially benefit prospectively the United States.” While scouting and recruiting players for the Korean professional baseball league may economically benefit a small handful of U.S. players who do not qualify for Major League Baseball here in the United States, the petitioner has not shown how such activities would represent a substantial prospective benefit to this country as required by section 203(b)(1)(A)(iii) of the Act.²

In view of the foregoing, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

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 sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.

² [REDACTED], Sports Editor for *The Korea Daily*, a Korean language newspaper published in Los Angeles, states: “I think that [the petitioner] should stay here longer so that the jobless players in the United States will be able to benefit from him more.”