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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

PUBLIC COPY

Dq.

[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: NOV 0 1 2010

IN RE: Petitioner: [redacted]
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:

[redacted]

INSTRUCTIONS

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion. The fee for a Form I-290B is currently $585, but will increase to $630 on November 23, 2010. Any appeal or motion filed on or after November 23, 2010 must be filed with the $630 fee. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, initially approved the nonimmigrant petition. The director subsequently issued a notice of intent to revoke, and after reviewing the petitioner's rebuttal evidence, revoked the approval of the petition on July 24, 2009. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will summarily dismiss the appeal.

The petitioner filed the nonimmigrant petition seeking to classify 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, which is self-described as a professional horse show barn, seeks to employ the beneficiary temporarily in the United States as a P-1 athlete to serve as a "Professional Athlete/Rider."

The director initially approved the petition on November 13, 2008. The director advised the petitioner of U.S. Citizenship and Immigration Services' (USCIS') intent to revoke the approval of the petition on May 26, 2009, based on the petitioner's failure to submit certain required initial evidence pertaining to the beneficiary's eligibility as an internationally-recognized athlete. The director ultimately revoked the approval of the petition determining that the petitioner failed to establish that the beneficiary meets the criteria for an internationally-recognized athlete, a "professional athlete," or any other qualifying categories under section 101(a)(15)(P)(i)(A) of the Act. In denying the petition, the director observed that the record contains no primary evidence that the beneficiary has actually ever competed as an athlete in any equestrian event.

The petitioner subsequently filed an appeal. On the Form I-290B, Notice of Appeal or Motion, where asked to provide a statement explaining any erroneous conclusion of law or fact in the decision being appealed, counsel stated: "The notice of intent to revoke was illegal, therefore the denial of the case is also illegal." Counsel indicated that she would submit a brief and/or additional evidence to the AAO within 30 days. The appeal was filed on August 21, 2009. As of this date, no additional evidence has been incorporated into the record of proceeding, and the record will be considered complete.

The instant petition was filed on October 30, 2008, subsequent to the passage of Public Law 109-463, "Creating Opportunities for Minor League Professionals, Entertainers, and Teams through Legal Entry Act of 2006" (COMPETE Act of 2006), which amended section 214(c)(4)(A) of the Act, and authorizes certain athletes to be admitted temporarily into the United States to compete or perform in an athletic league, competition, or performance. The COMPETE Act, signed into law on December 22, 2006, expanded the P-1 nonimmigrant visa classification to include certain athletes who were formerly admitted to the United States as H-2B nonimmigrants.

Under the current statute, as amended by the COMPETE Act, the P-1 nonimmigrant classification includes: (1) athletes who perform at an internationally recognized level of performance, individually or as part of a team; (2) professional athletes as defined in section 204(i)(2) of the Act; (3) athletes and coaches who participate in certain qualifying amateur sports leagues or associations; and (4) professional and amateur athletes who perform in theatrical ice skating productions.

The director determined that, based on the evidence submitted, the beneficiary does not meet any of these categories of qualifying aliens under section 101(a)(15)(P)(i)(A) of the Act. In denying the petition, the

director noted that the petitioner failed to submit requested evidence of the beneficiary's competition results, and as such the record was devoid of any primary evidence that the beneficiary has actually competed in any equestrian events as a professional rider. The director further noted that, according to the beneficiary's resume, he is a horse groom and trainer with no apparent experience as a rider in equestrian competition. The director further acknowledged the petitioner's claim that the beneficiary is a "professional athlete" as defined in section 204(i)(2) of the Act, but emphasized that the petitioning horse barn did not submit evidence that it is part of an association consisting of six or more professional sport teams.

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.

Upon review, the AAO concurs with the director's decision and affirms the revocation of the petition approval. Counsel's general objection that the director's decision was "illegal," without specifically identifying any errors on the part of the director, is simply insufficient to overcome the conclusions the director reached based on the evidence submitted by the petitioner. The unsupported statements of counsel on appeal or in a motion are not evidence and thus are not entitled to any evidentiary weight. *See INS v. Phinpathya*, 464 U.S. 183, 188-89 n.6 (1984); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503 (BIA 1980).

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 not identified specifically an erroneous conclusion of law or statement of fact in support of the appeal, the appeal must be summarily dismissed.

ORDER: The appeal is summarily dismissed.