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U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
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U.S. Citizenship  
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FILE: [Redacted] Office: TEXAS SERVICE CENTER Date: JUN 17 2009  
SRC 07 271 57308

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:

SELF-REPRESENTED

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, Texas 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. 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.

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):

*Initial evidence:* A petition for an alien of extraordinary ability must be accompanied by evidence that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise. Such evidence shall include evidence of a one-time achievement (that is, a major, international recognized award), or at least three of the following:

(i) Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor;

- (ii) 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;
- (iii) Published material 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;
- (iv) Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought;
- (v) Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field;
- (vi) Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media;
- (vii) Evidence of the display of the alien's work in the field at artistic exhibitions or showcases;
- (viii) Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation;
- (ix) Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field; or
- (x) Evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales.

This petition, filed on July 16, 2007, seeks to classify the petitioner as an alien with extraordinary ability in soccer. The record reflects that the petitioner has been residing in the United States since May 29, 2005. Given the length of time between the petitioner's arrival in the United States and the current date (over four years), it is reasonable to expect him to have earned national acclaim in the United States during that time. He has had ample time to establish a reputation in this country.

The petitioner's initial submission consisted of the Form I-140 with no supplemental evidence. The director thereafter issued a Request for Evidence ("RFE") dated March 6, 2008, wherein he requested additional information within twelve weeks from the date of the RFE. In response to the RFE, on June 6, 2008, the petitioner requested an additional two months to provide supporting documentation because he claimed that his attorney was laid off for misconduct after the filing of his initial petition. With regard to the director's issuance of a RFE, the regulation at 8 C.F.R. § 103.2(b)(8)(iii) permits the petitioner to respond "within a specified period of time as determined

by USCIS.” As the regulations do not mandate any specific period of time in which to afford a petitioner the opportunity to respond to an RFE, the director does not have to honor a petitioner’s request for additional time. Further, as a Form G-28 was never submitted by any attorney, additional time was not warranted. Nonetheless, the petitioner has since supplemented the record on appeal as of August 14, 2008 (more than five months following the RFE), and therefore it would serve no useful purpose to remand the case simply to afford the petitioner the opportunity to supplement the record with new evidence.

As the petitioner failed to provide any supporting evidence in response to the RFE, the director denied the petition on June 16, 2008, finding that the petitioner had not established his eligibility pursuant to section 203(b)(1)(A) of the Act.

On appeal, the petitioner provided a document confirming he was a soccer player in the Youth Section of his team, Septemvri, from 1990 through 1999. The petitioner also submitted a letter from the New Bulgarian University stating that he was a member of the university soccer team from 1999 through 2005. In addition, the petitioner provided his resume detailing his skills, playing history, awards, and coaching experience. He also submitted two photographs, one of his trophies and one of himself with his team, Septemvri. This evidence failed to demonstrate that the petitioner has earned sustained acclaim at the national or international level.

In order to meet the criterion under 8 C.F.R. § 204.5(h)(3)(ii), the petitioner must provide:

*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.*

In order to demonstrate that membership in an association meets this criteria, the petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, minimum education or experience, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion as such requirements do not constitute outstanding achievements. Further, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association’s overall reputation. The record does not include evidence (such as membership bylaws or official admission requirements) showing that Septemvri or the New Bulgarian University soccer team requires outstanding achievements of its members, as judged by recognized national or international experts in soccer. Accordingly, the petitioner has not met this criterion.

In order to meet the criterion under 8 C.F.R. § 204.5(h)(3)(i), the petitioner must provide:

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

On appeal, the petitioner submitted his resume which cited various awards that he has purportedly won. He also provided a photograph of his trophies. However, the inscriptions on the trophies could not be read as the picture of them was small. Additionally, translations were not provided to identify the awards or to confirm that they were awarded to the petitioner. The petitioner also provided a picture of himself with his team, [REDACTED], after allegedly winning first place in a Bulgarian National Soccer Championship.

No evidence was provided to show that these prizes constitute nationally or internationally recognized prizes for excellence in the petitioner's field, such as supporting evidence showing the prestige associated with receiving the awards or some other evidence consistent with national or international acclaim at the very top of the field. The plain language of the regulatory criterion at 8 C.F.R. § 204.5(h)(3)(i) specifically requires that the petitioner's awards be nationally or internationally *recognized* in the field of endeavor and the petitioner has the burden to establish every element of this criterion. The record lacks general information about the awards, such as the award criteria, the area from where participants were drawn, the number of entrants, or the percentage of entrants who earned some type of recognition.

As discussed previously, the statute and regulations require the beneficiary's national or international acclaim to be *sustained*. The two photographs provided by the petitioner do not indicate the dates that he received these awards. Although no independent evidence was provided, the petitioner's resume lists the dates of his receipt of various awards. As most of the petitioner's awards appear to have been received a decade prior to the filing of his petition, assuming he has actually received these awards, he cannot establish sustained national or international acclaim.

In light of the above, the petitioner has not established that he meets this criterion.

In this case, the petitioner has failed to demonstrate his receipt of a major internationally recognized award, or that 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. Therefore, the petitioner has not established his 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.