

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

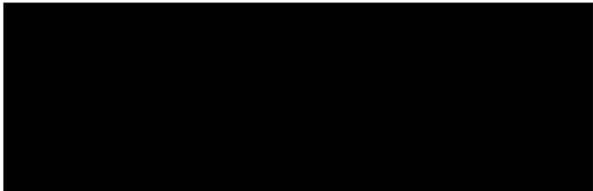
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

dg

PUBLIC COPY



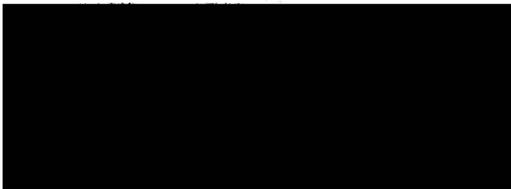
FILE: SRC 05 175 50496 Office: TEXAS SERVICE CENTER Date: JUL 25 2006

IN RE: Petitioner:
Beneficiary:



PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(O)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(O)(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, Chief
Administrative Appeals Office

15

DISCUSSION: The Director, Texas Service Center, denied the nonimmigrant visa petition in a decision dated March 30, 2006. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner, Southern Soccer Coalition, is "a non-profit soccer organization for youths under the age of 18." The petitioner seeks O-1 classification of the beneficiary, as an alien with extraordinary ability in athletics under section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(O)(i), in order to employ him in the United States as a soccer trainer for a period of three years.

The director denied the petition, finding that the petitioner failed to establish that the beneficiary has received sustained national or international acclaim as a soccer trainer.

The petitioner, through counsel submits a timely appeal.

Section 101(a)(15)(O)(i) of the Act provides classification to a qualified alien who has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim, whose achievements have been recognized in the field through extensive documentation, and who seeks to enter the United States to continue work in the area of extraordinary ability.

The regulation at 8 C.F.R. § 214.2(o)(3)(ii) defines, in pertinent part:

Extraordinary ability in the field of science, education, business, or athletics means a level of expertise indicating that the person is one of the small percentage who have arisen to the very top of the field of endeavor.

The regulation at 8 C.F.R. § 214.2(o)(3)(iii) states, in pertinent part, that:

Evidentiary criteria for an O-1 alien of extraordinary ability in the fields of science, education, business, or athletics. An alien of extraordinary ability in the fields of science, education, business, or athletics must demonstrate sustained national or international acclaim and recognition for achievements in the field of expertise by providing evidence of:

(A) Receipt of a major, internationally recognized award, such as the Nobel Prize; or

(B) At least three of the following forms of documentation:

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

(2) 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;

- (3) Published material in professional or major trade publications or major media about the alien, relating to the alien's work in the field for which classification is sought, which shall include the title, date, and author of such published material, and any necessary translation;
- (4) Evidence of the alien's participation on a panel, or individually, as a judge of the work of others in the same or in an allied field of specialization to that for which classification is sought;
- (5) Evidence of the alien's original scientific, scholarly, or business-related contributions of major significance in the field;
- (6) Evidence of the alien's authorship of scholarly articles in the field, in professional journals, or other major media;
- (7) Evidence that the alien has been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation;
- (8) Evidence that the alien has either commanded a high salary or will command a high salary or other remuneration for services, evidenced by contracts or other reliable evidence.

(C) If the criteria in paragraph (o)(3)(iii) of this section do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence in order to establish the beneficiary's eligibility.

The beneficiary in this matter was born in Brazil and is a naturalized citizen of Venezuela. The evidence in the record indicates that the beneficiary last entered the United States as a B-2 nonimmigrant visitor on June 11, 2004. After a careful review of the record, it must be concluded that the petitioner has failed to overcome the grounds for denial of the petition. The record is insufficient to establish that the beneficiary is an alien with extraordinary ability in athletics. First, there is no evidence that the beneficiary has received an award equivalent to that listed at 8 C.F.R. § 214.2(o)(3)(iii)(A), such as the Nobel Prize. Second, as will be discussed, the record is not persuasive in demonstrating that the beneficiary has met at least three of the criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B).

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

As evidence of the beneficiary's awards as a soccer player, counsel lists the names of teams that the petitioner played on and awards that he has won. The record remains absent evidence that these teams were nationally or internationally recognized, like that of a country's national or Olympic team, or that the awards won were national or international awards. Moreover, the record reflects that the last awards received by the beneficiary as a soccer player were in the late 1980s, seventeen years prior to the filing of the petition in 2004. As the statute

requires evidence of “sustained” acclaim, we cannot conclude that the record demonstrates the beneficiary’s sustained acclaim as a soccer player when the petition was filed.

That said, the question of whether the beneficiary has sustained acclaim as a trainer must still be considered. In this instance, while the petitioner has submitted evidence regarding the beneficiary’s experience as a soccer player, the petitioner intends to hire the beneficiary as a coach or trainer. The regulation at 8 C.F.R. § 204.5(h) requires the beneficiary to “continue work in the area of expertise.” While a soccer player and a coach or trainer certainly share knowledge of soccer, the two rely on very different sets of basic skills. This interpretation has been upheld in federal court. In *Lee v. I.N.S.*, 237 F. Supp. 2d 914 (N.D. Ill. 2002), the court stated:

It is reasonable to interpret continuing to work in one’s “area of extraordinary ability” as working in the same profession in which one has extraordinary ability, not necessarily in any profession in that field. For example, [REDACTED] extraordinary ability as a baseball player does not imply that he also has extraordinary ability in all positions or professions in the baseball industry such as a manager, umpire or coach.

Id. at 918. The court noted a consistent history in this area. We accept that the awards criterion is not readily applicable to coaches and trainers. Thus, we will accept evidence of the awards won by individuals or teams while actively being trained or coached by the beneficiary as comparable evidence to meet this criterion. 8 C.F.R. § 204.5(h)(4). From the evidence in the record, it appears that the beneficiary switched from competing as a player to coaching and training in the early 1990s. As such, he has had ample time to develop a reputation as a trainer. The longer the time since the petitioner switched from competing to training, the less relevance we accord to the petitioner’s accomplishments as a competitor.

As evidence of the beneficiary’s awards as a trainer, the petitioner claims that the petitioner has been the trainer of “several soccer teams, and private and public schools,” and “amateur soccer teams and schools.” Although the petitioner lists teams and schools coached by the beneficiary, it provides no evidence that any of these teams won national or international awards while the beneficiary was coaching them and provides no evidence that these teams or players were nationally or internationally recognized.

The petitioner also list professional teams for which the beneficiary was coach and claims that those teams won awards such as the “Zulia State Championship,” the “International Championship Copa Aniversario Centro Gallego” and the “National Championship Hermandad Gallega de Caracas.” The petitioner provides no evidence that these competitions were nationally or internationally recognized. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). While the beneficiary also received awards of recognition and achievement from the individual teams that he was coached, such awards are not considered to be national or international awards.

While working for the petitioner, the beneficiary’s teams have participated and placed in numerous tournaments, such as the “Disney Cup International Soccer Tournament” the “West Pines Kickoff Classic” the

“President’s Day Cup,” and the “South Florida United Soccer League.” However, the petitioner fails to provide any evidence of the significance of these tournaments. Accordingly, the record does not support a finding that those individuals or teams trained or coached by the beneficiary have achieved significant recognition such that, as a trainer, the beneficiary can be considered to have sustained acclaim.

The petitioner has failed to establish that the beneficiary meets this criterion.

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.

For criterion number two, the petitioner claims that the beneficiary is a member of the following associations:

- International Federation of Soccer (FIFA), Youth Academy
- Coach Soccer Venezuelan Federation
- Professional Soccer Labor Union of Rio de Janeiro
- Soccer Association of the State of Zulia, Venezuela
- U.S. National “C” Coaching License, U.S. Soccer Federation
- Florida Youth Soccer Association

However, the petitioner provides no documentation related to the requirements for becoming a member of the listed organizations much less that membership requires outstanding achievements as judged by nationally or internationally recognized experts. While the petitioner also submits evidence of the beneficiary’s licensure as a coach, we do not find such licensure is equivalent to *membership* in an association.

The petitioner has not established that the beneficiary meets this criterion.

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

For criterion number three, the petitioner submitted several undated, uncaptioned photographs, as well as blurbs in unnamed publications which mention the beneficiary’s teams and/or the beneficiary’s name. We do not consider such evidence to be published material about the beneficiary.

The petitioner also submits numerous copies of articles that are not accompanied by a translation. Without the required translation, we are unable to determine whether such articles are considered to be about the beneficiary. Similarly, many of the articles do not contain the name of the publication, while others appear to have been published in a local papers or newsletters. Such evidence is not considered material which has been published in professional or major trade publications.

The petitioner also submits numerous untranslated articles related to beneficiary when he was a competitive soccer player. However, such evidence is not considered to be related to the beneficiary work as a soccer

coach or trainer, the field in which the beneficiary seeks classification. Accordingly, we find that the evidence contained in the record does not establish that material has been published about the beneficiary in major trade publications or major media related to the beneficiary's work as a soccer coach or trainer.

The petitioner has failed to establish that the beneficiary meets this criterion.

Evidence of the alien's participation on a panel, or individually, as a judge of the work of others in the same or in an allied field of specialization to that for which classification is sought.

The petitioner did not claim that the beneficiary satisfies this criterion or submit any documents in relation to this criterion.

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

For criterion number five, the petitioner submitted several letters attesting to the beneficiary's expertise and ability as a competitor and a trainer and coach. While we do not dispute the writers' high opinion of the beneficiary, the record does not contain any evidence which demonstrates that the beneficiary made an *original contribution of major significance* in his field of endeavor.

Accordingly, the petitioner has failed to establish that the beneficiary meets this criterion.

Evidence of the alien's authorship of scholarly articles in the field, in professional journals, or other major media.

No evidence was submitted in relation to criterion number six.

Evidence that the alien has been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation.

The petitioner does not assert that the beneficiary meets this criterion.¹

Evidence that the alien has either commanded a high salary or will command a high salary or other remuneration for services, evidenced by contracts or other reliable evidence.

On the Form I-129, the petitioner indicates that the petitioner will receive a salary of \$300 per week or \$15,600 per year. However, the petitioner fails to submit any evidence which demonstrates that an annual salary of \$15,600 is significantly high in relation to others in the field.

The petitioner has not established that the beneficiary meets this criterion.

¹ Although the beneficiary's position as head coach could be considered a critical or essential capacity, we note that the record contains no evidence that any of the teams coached by the petitioner have a distinguished reputation.

This evidence contained in the record is insufficient to establish eligibility for this restrictive visa classification, which requires extensive documentation of extraordinary achievement. The extraordinary ability provisions of this visa classification are intended to be highly restrictive. *See* 137 Cong. Rec. S18247 (daily ed., Nov. 16, 1991). In order to establish eligibility for extraordinary ability, the statute requires evidence of "sustained national or international acclaim" and evidence that the alien's achievements have been recognized in the field of endeavor through "extensive documentation." The petitioner has not established that the beneficiary's abilities have been so recognized. In order to establish eligibility for O-1 classification, the petitioner must establish that the beneficiary is "at the very top" of his field of endeavor. 8 C.F.R. § 214.2(o)(3)(ii). The beneficiary's achievements do not rise to this level.

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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. Here, that burden has not been met.

ORDER: The appeal is dismissed.