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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  
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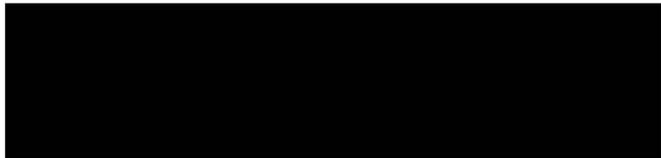
FILE: WAC 07 053 52581 Office: CALIFORNIA SERVICE CENTER Date: **JAN 05 2010**

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.

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, as required by 8 C.F.R. § 103.5(a)(1)(i).

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner filed this nonimmigrant visa petition seeking to classify the beneficiary pursuant to section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(O)(i), as an alien with extraordinary ability. The petitioner manufactures motorcycle parts and accessories and sponsors a motorcycle road racing team that competes in the American Motorcycle Association (AMA) national road racing series. It seeks to employ the beneficiary in the position of Professional Data Acquisition Profiler for a period of two years.

The director denied the petition concluding that the petitioner failed to establish that the beneficiary had achieved sustained national or international acclaim and was one of the small percentage who had risen to the very top of his field. In denying the petition, the director noted that the petitioner did not submit evidence to establish any of the criteria set forth at 8 C.F.R. § 214.2(o)(3)(iii)(A) or (B), and is therefore ineligible for classification as an alien of extraordinary ability in the sciences.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On appeal, counsel for the petitioner asserts that the petitioner requested that the beneficiary be granted O-1 classification based on his extraordinary ability in athletics, while the director mistakenly considered whether the beneficiary has demonstrated extraordinary ability in science. Counsel further argues that the director abused his discretion by concluding that U.S. Citizenship and Immigration Services (USCIS) is not required to consider comparable evidence offered pursuant to 8 C.F.R. § 214.2(o)(3)(iii)(C). Finally, counsel asserts that the director failed to consider the totality of the supporting evidence. Counsel submits a brief and additional documentary evidence in support of the 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 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 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 regulation at 8 C.F.R. § 214.2(o)(3)(ii) defines, in pertinent part:

*Extraordinary ability in the fields 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:

*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 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 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.

Additionally, the regulation at 8 C.F.R. § 214.2(o)(2)(iii) provides:

The evidence submitted with an O petition shall conform to the following:

- (A) Affidavits, contracts, awards, and similar documentation must reflect the nature of the alien's achievement and be executed by an officer or responsible person employed by the institution, firm, establishment, or organization where the work was performed.
- (B) Affidavits written by present or former employers or recognized experts certifying to the recognition and extraordinary ability . . . shall specifically describe the alien's recognition and ability or achievement in factual terms and set forth the expertise of the affiant and the manner in which the affiant acquired such information.

It is noted that the decision of USCIS in a given case is dependent upon the quality of the evidence submitted by the petitioner, not just the quantity of the evidence. The mere fact that the petitioner has submitted evidence relating to three of the criteria as required by the regulation does not necessarily establish that the alien satisfies the criteria and is eligible for O-1 classification. The evidence submitted must establish that the beneficiary qualifies as an alien of extraordinary ability. *See* 59 Fed. Reg. 41818-01, 41820.

The record of proceeding includes the petition and supporting evidence, a request for evidence, the petitioner's response to the RFE, the director's denial, the petitioner's appeal, and a brief and additional documentary evidence submitted in support of the appeal.

The beneficiary in this matter is a native and citizen of South Africa. According to the beneficiary's resume, he is an "international consultant to the motorcycle racing world." He indicates that his more than 20 years of industry experience includes race bike development, race team management, project leadership in suspension development, technical race department head and crew chief experience, and technical consulting in the field of motorcycle research and development for international motorcycle manufacturers. In addition, the beneficiary states that he possesses expertise in high performance motorcycle chassis design and modification, including computerized on-board race data profile analysis and race tuning.

As a preliminary matter, the AAO will address counsel's assertion that the director erred by designating the beneficiary's claimed area of extraordinary ability as science, rather than athletics.

In its letter submitted in support of the petition, the petitioner described the beneficiary's area of extraordinary ability as follows:

[The beneficiary] has an extraordinary ability in the art and *science* of race data profiling. Race Data Profiling is the *science* of interpreting data that is acquired from the placement of sensors along the body, frame and mechanics of a given vehicle. In [the beneficiary's] case, the vehicles are high performance competitive racing motorcycles. He has unique and gifted abilities in the field of data acquisition, analysis and interpretation for high performance racing applications. [The beneficiary's] abilities (some call it a "gift") as a race data profiler in this specialized field are shared by only a handful of individuals in the world and he is among that very small percentage of those who have risen to the very top of their field of endeavor. His *scientific* skills

and abilities have made great contributions to the field of competitive motorcycle racing.

(Emphasis added.)

The petitioner went on to state that the beneficiary possesses an expert understanding of engine dynamics, electronics, fuel and exhaust systems, suspension dynamics, aerodynamics, thermodynamics, analysis and interpretation of electronic motorcycle systems data; and application of this data to the implementation of practical adjustments to motorcycle systems and advise to riders. Given these statements, the AAO cannot find that the director erred by identifying the beneficiary's area of extraordinary ability as "science," and counsel's objections to this classification are not persuasive. At the same time, the AAO acknowledges the petitioner's statement that the beneficiary's "skill in this area is difficult to categorize using a standard classification." In response to the RFE, counsel noted that the beneficiary interprets technical data, considers feedback from riders and uses that "collective information to coach, train, motivate the racer to achieve maximum performance." However, the petitioner never referred to the beneficiary's field as "athletic coaching" prior to the denial of the petition.

Not every occupation will fall neatly into one of the general fields of business, science, athletics, or arts. In this case, the beneficiary's expertise is in the application of science to the sport of motorcycle racing, and the AAO would not consider him to be strictly an applied scientist or an athletic coach. It must be emphasized that the fields of science and athletics are both governed by the same regulatory definition of "extraordinary ability," and the same evidentiary criteria. *See* 8 C.F.R. §§ 214.2(o)(3)(ii) and (iii). If the petitioner establishes through extensive documentary evidence that the beneficiary has sustained national or international recognition and is one of the small percentage who have arisen to the very top of the field of endeavor, it makes little difference whether his field is identified as science or athletics. Although the director ultimately characterized the beneficiary's field as "science," he did not disregard the petitioner's claims regarding the beneficiary's achievements in athletics.

Upon review of the totality of the evidence, the AAO concurs with the director that the evidence of record is insufficient to establish that the beneficiary is one of the small percentage who has risen to the very top of his field of endeavor.

If the petitioner establishes through the submission of documentary evidence that the beneficiary has received a major, internationally recognized award, such as the Nobel prize, pursuant to 8 C.F.R. § 214.2(o)(3)(iii)(A), then it will meet its burden of proof with respect to the beneficiary's eligibility for O-1 classification. Here, the petitioner has not submitted evidence that the beneficiary has received a major, internationally recognized award, nor has the petitioner claimed that the beneficiary meets this criterion.

As there is no evidence that the beneficiary has received a major, internationally recognized award, the petitioner must establish the beneficiary's eligibility under at least three of the eight criteria set forth at 8 C.F.R. § 214.2(o)(3)(iii)(B).

In order to meet criterion number one, the petitioner must submit documentation of the alien's receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 214.2(o)(3)(iii)(1).

Counsel stated in a letter dated March 15, 2007 that the beneficiary "was honored by American Motorcyclist as Tuner of the Year in 2006, following a sweep of the top three (3) overall positions in the AMA Superstock Championship." Counsel stated that the beneficiary received the same award in 2004.

In denying the petition, the director acknowledged these claims, but noted that the petitioner had failed to submit any evidence to substantiate the beneficiary's receipt of such awards.

On appeal, the petitioner submits a copy of an award from AMA Pro Racing designating the beneficiary as the "2006 AMA Repsol Lubricants Superstock Series Crew Member of the Year." While counsel suggests that the evidence was previously submitted, the AAO notes that all prior evidence is in order and carefully labeled, and this document was not previously provided. Counsel describes the award as "extremely prestigious," but no other background information is provided regarding the significance of the award. 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)).

Regardless, the AAO cannot conclude that receipt of one documented award in the year the petition was filed, over the course of a career spanning more than 20 years, is indicative of the beneficiary's sustained national or international acclaim.

The AAO notes that the beneficiary lists in his resume among his accomplishments the results of various riders and teams who won national or international championships. For example, the beneficiary indicates that he served as "Head of Suspension Development" in Italy in 2004, during which time he developed new products for motorcycles, working with major manufacturers such as Kawasaki, Suzuki, Honda and Yamaha. He states that his accomplishments included "Won Italian Championship in all motorcycle classes." The beneficiary indicates that from 2000 to 2002 that he worked as a service engineer and chassis consultant for Factory Suzuki in the Netherlands, and assisted four riders. He indicates that his accomplishments include "Two Motocross World Championships, SuperSport World Championship, World Rally Championship and World Enduro Championship." However, these are not national or international awards that were received by the beneficiary, nor can these championships be directly attributed to his contribution based solely on his resume. Absent some independent documentation corroborating the beneficiary's integral role as a lead coach or crew member for these riders and teams, the AAO cannot credit the beneficiary with the results achieved during his tenure as a crew member or consultant for various racing teams. Furthermore, the petitioner does not claim that he satisfies this criterion based on his coaching or consulting relationship with an athlete or team that has won national or international awards.

The petitioner did submit two almost identical letters from AMA riders [REDACTED] and [REDACTED]. The close similarity in content indicates that the language of the letters is not the authors' own and detracts from their probative value. While it appears that the beneficiary was a member of [REDACTED] crew as a suspension technician or specialist in 2006, there is no evidence that he has worked with [REDACTED] in the past. Furthermore, [REDACTED] does not explicitly mention that he has previously worked with the beneficiary. Both riders speak generally about the importance of having a race data profiler on their crew, and state that "without a person of the caliber of [the beneficiary] helping me, it is unlikely that I would win very many events at the

championship level." Both riders also state that they "have heard about [the beneficiary's] stellar reputation internationally in the field of motorcycle road racing and understand that he is among the very few who are the best at this unique and artistic aspect of race data profiling." There is nothing in the letters that would support a conclusion that the authors attribute their previous success to their relationship with the beneficiary. The petitioner has not established that the beneficiary meets this criterion.

In order to establish that the beneficiary meets the second criterion, at 8 C.F.R. § 214.2(o)(3)(iii)(B)(2), the petitioner must document 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. Counsel has stated that "due to the relatively recent emergence of Race Data Acquisition as a recognized career in the world of motorcycle road racing as well as the position of 'Race Data Profiler,' no professional trade associations have been established to date." Therefore, the petitioner has neither claimed nor established that the beneficiary meets this criterion.

The third criterion, at 8 C.F.R. § 214.2(o)(3)(iii)(B)(3), requires the petitioner to submit 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.

To satisfy this criterion, the petitioner submitted, in part, four 2005 and 2006 articles from *Superbike Magazine*, *SuperMoto Racer Magazine*, *Robb Report – Motorcycling*, and *Roadracing World & Motorcycle Technology*, which make absolutely no mention of the beneficiary or his work in the field of race data profiling. Two of the articles profile the petitioner and its owner, one article profiles ██████████ a rider who has worked with the beneficiary and currently rides for the petitioner's team, and one article is about the use of data profiling in the sport of motorcycle racing in general. Counsel asserts that these articles confirm "the nature and extent of work the beneficiary would be performing," and "reference the highly prestigious standing of the petitioner's company in the international motorcycle racing community." Counsel states that "the purpose of including these articles was to highlight the fact that the beneficiary has earned the right to work for a company [the petitioner] that enjoys extremely prestigious international standing in the world of professional motorcycle racing." However, the regulatory criterion is clear. The published material must be about the alien and relate to his work in the field for which classification is sought. Articles that do not mention the beneficiary are clearly not about the beneficiary.

The petitioner submitted one publication that that mentions the beneficiary. The article, "Fraternal Twins; Formula 1 Technology Arrives at the Showroom," appeared in the July/August 2006 issue of *Robb Report – Motorcycling*. Counsel asserts that the article "details the invaluable role of the Race Data Profiler to a professional motorcycle racing team," and "shows how essential [the beneficiary] has been to the overall success of [the petitioner's] team." The article discusses in detail the design and technical specifications of the Yamaha R6 motorcycle, including its data acquisition systems. The article mentions that the beneficiary serves as the petitioner's "chassis data acquisition guru," that he plays a key role in the instrumentation of the motorcycles, and that he is flown in from South Africa to consult with the team based on his ability to interpret race data. The article is not specifically about the beneficiary, and the AAO notes that a reference to

the beneficiary in one publication is not sufficient to demonstrate his sustained national or international recognition as a race data profiler.

Finally, the petitioner submitted the 2006 Road Race Media Kit for the Yamaha Factory Race Team, in which the petitioning company is described as "an independent arm to the Factory Yamaha Team." The media kit explains that "Yamaha entrusts the [petitioner's] team to prepare Superstock versions of the YZF-R1 LE for its stable of three shared riders." The beneficiary is identified in the Team Overview as the "suspension" member of the petitioner's three-person "R1 Crew," which includes a crew chief and mechanic. This document confirms the petitioner's existing relationship with the beneficiary, but is not major media that establishes his national or international recognition in the sport, or in the field of race data profiling. The only data acquisition team member mentioned in the media kit is a member of the Yamaha YZF-R6 Supersport team.

Based on the foregoing, the petitioner has not established that the beneficiary meets this criterion. While the mention of the beneficiary in an issue of *Robb Report* is notable, it is not demonstrative of sustained national or international acclaim.

In order to meet the fourth criterion, the petitioner must submit 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. 8 C.F.R. § 214.2(o)(3)(iii)(B)(4). The petitioner has not submitted evidence to satisfy this criterion. In this regard, counsel for the petitioner stated that the beneficiary served as Crew Chief for Team Roberts during the 1996 and 1997 Asian Pacific Championship Racing Season. Specifically, counsel stated: "The work of each race mechanic was overseen and judged by [the beneficiary] in order to assure that the motorcycle was worthy of being placed into competition."

In denying the petition, the director determined that the beneficiary does not meet this criterion. Specifically, the director found:

In an occupation where "judging" the work of others is an inherent duty of the occupation, such as a coach, instructor, teacher, professor or editor, simply performing one's job related duties demonstrates competency, and is not evidence of national or international acclaim. Instead, the beneficiary must demonstrate that his sustained national or international acclaim resulted in his selection to serve as a judge of the work of others.

The director found that the beneficiary's role as a crew chief, a position which inherently involves overseeing the work of others, had not been shown to meet this criterion. Counsel does not mention this criterion on appeal. Upon review, the AAO concurs with the director's finding that the beneficiary's employment as a crew chief in the 1990s was not tantamount to serving as a judge of the work of others in his field.

The fifth criterion requires the petitioner to submit evidence of the alien's original scientific, scholarly, or business-related contributions of major significance in the field. 8 C.F.R. § 214.2(o)(3)(iii)(B)(5). Counsel addressed this criterion as follows in responding to the director's RFE:

[The beneficiary] has been directly responsible for the international success of professional teams who have benefited from his unusual combination of talents in race data profiling, consultation and rider education, coaching and training, including: Championships in Moto GP and World SuperSport; his team's sweep of the top three (3) overall positions in the 2006 AMA Superstock Championship; a First Place Finish in the 2004 AMA Superstock Championship; and the 2004 Italian Championship in all motorcycle classes.

The director found that the petitioner failed to submit corroborating evidence in support of this claim, and further noted that the Yamaha Road Race Media Kit failed to confirm that the beneficiary has even been employed by the petitioner's AMA Superstock Championship-winning team as a data acquisition specialist. On appeal, counsel does not specifically address this criterion.

Upon review, the AAO finds that the petitioner has not met this criterion. Neither the petitioner nor counsel has adequately explained how the beneficiary's participation as a crew member or consultant to successful athletes or racing teams amounts to "an original scientific, scholarly or business-related contribution of major significance in the field" of race data acquisition or the sport of motorcycle racing in general. When considering the petitioner's claim that the beneficiary meets this criterion, USCIS cannot ignore the wording of the regulation. Whereas other regulatory passages refer to "extraordinary ability in the fields of science, education, business, or athletics," 8 C.F.R. § 214.2(o)(3)(iii)(B)(5) refers to "the alien's original scientific, scholarly, or business-related contributions." The omission of "athletic contributions" is a realistic reflection of the nature of athletic competition. Winning a competition, or coaching an athlete or team who wins a competition, is not an "original contribution;" it is expected that any given athletic event will have a winning athlete or team that outscores or outperforms rival competitors. Similarly, possessing a high level of the skills needed to succeed in a particular sport is generally a matter of degree, rather than an "original contribution" to the sport. Therefore, attestations regarding the beneficiary's talent, skills and success as a race team technical crew member will not satisfy 8 C.F.R. § 214.2(o)(3)(iii)(B)(5) as evidence of the beneficiary's original contributions. Competitive success is already taken into account by 8 C.F.R. § 214.2(o)(3)(iii)(B)(1), pertaining to prizes and awards, and 8 C.F.R. § 214.2(o)(3)(iii)(B)(3) instructs USCIS to take into account any major media attention that an athlete, coach or other athletic support personnel may earn by standing out from others in a particular sport.

The AAO would also consider any recognition the beneficiary may have received from experts in his field for an "original" contribution to the sport of motorcycle racing as a race data profiler or technical crew member/coach. Pursuant to 8 C.F.R. § 214.2(o)(iii)(B), affidavits written by present or former employers or recognized experts certifying to the recognition and extraordinary ability. . . shall specifically describe the alien's recognition and ability or achievement in factual terms and set for the manner in which the affiant acquired such information. Affidavits must also "reflect the nature of the alien's achievement." 8 C.F.R. § 214.2(o)(iii)(A).

However, none of the persons or organizations who provided recommendation letters identified with specificity what exactly constitutes the beneficiary's original contribution to the sport of motorcycle racing. For example, Merrill Vanderslice, Director of Competition for the AMA, states that "there are not that many recognized and accomplished data profilers," but that the beneficiary "is one of the few data profilers whose skills have been acclaimed by racing professionals worldwide and who has a demonstrated track record of expertise in this area."

mentions that championship-level competitive race teams must have a data profiler as part of their crew to succeed and that "endorsements from the AMA are few and far between and provided only after serious consideration." He did not provide any detail regarding any contributions the beneficiary has made to the sport of motorcycle racing or the field of race data profiling, mention with specificity any recognition the beneficiary has received for his contributions, or indicate on what basis he was able to render this opinion. Similarly, the testimonial letter from [REDACTED] of Yamaha Motor Corporation, mentions that "there are only a handful of expert profilers available," and that the beneficiary is one such expert. [REDACTED] describes the beneficiary as an "internationally acclaimed" race data profiler, with talent that has put him "at the very top of the industry," but he failed to identify any specific basis for this conclusion, or any specific contribution made by the beneficiary as a race data profiler.

Finally, the petitioner has submitted two letters from [REDACTED] who states that he is a race data profiler and owner of his own data acquisition system development company. In his first letter, submitted with the initial filing, [REDACTED] opined that the beneficiary is "one of the few individuals in our industry who has been able to master the art and science of race data profiling," that the beneficiary is recognized as "one of the top race data profilers in Europe," and that "his work has contributed to the advancement of motorcycle racing technology." However, [REDACTED] does not describe exactly what constitutes the beneficiary's contribution to motorcycle racing technology, and no basis for his conclusion that the beneficiary is recognized as one of the top professionals in the field.

In his second letter, submitted in response to the director's RFE, [REDACTED] stated that the beneficiary "stands above all others in his field due to his unique ability, in a phrase to transform technology into art," and "to serve as a highly effective coach and mentor to the team by combining his vast experience in complex dynamics with an intuitive and introspective approach to racing performance and competition." He further notes that the beneficiary "offers a unique and highly sought after combination of data analyst, interpreter, coach, mentor and creative therapist to the team's riders." However, [REDACTED] did not indicate that the beneficiary's "unique" combination of technical and interpersonal strengths as a data profiler and coach amount to an original contribution to the sport.

Furthermore, while the peer consultation letters provide relevant information about the beneficiary's talents and accomplishments, it should be noted that, even when written by independent experts, letters solicited by a beneficiary in support of a visa petition carry less weight than preexisting, independent evidence of major contributions that one would expect of an alien who has achieved sustained national or international acclaim.

Based on the above, the AAO concludes that the beneficiary does not meet this criterion.

The sixth criterion, at 8 C.F.R. 214.2(o)(3)(iii)(B)(6), requires the petitioner to submit evidence of the alien's authorship of scholarly articles in the field, in professional journals, or other major media. The petitioner does not claim that the beneficiary meets this criterion.

The seventh criterion requires the petitioner to submit evidence that the alien has been employed in a critical or essential capacity for organizations that have a distinguished reputation. 8 C.F.R. § 214.2(o)(3)(iii)(B)(7). In this regard, counsel stated:

In Europe, [the beneficiary] has provided sophisticated consultation for three of the five factory-sponsored professional racing teams, including preeminent motorcycle manufacturers Yamaha, Kawasaki and Suzuki. These companies have an unrivalled reputation in professional motorcycle road racing, as well as research and development, throughout the free world. Their race teams command international respect and are thus committed to hiring only those individual who are, quite literally, the best in the world, with impeccable reputations, qualifications and expertise.

In Malaysia, [the beneficiary] worked as [REDACTED], a position available only to a select few individuals with stellar credentials. His dedication and effort led [REDACTED] to win the 1997 Asian Pacific Championship. More recently, [the beneficiary's] work in race data profiling has directly contributed to victories in 2006 for Yamaha's R1 and R6 motorcycles in the AMA Superstock Championship and a First Place finish in the 2004 AMA Superstock Championship on the Yamaha R1.

The director found that the petitioner failed to submit corroborating evidence to support these claims.

On appeal, counsel asserts that the beneficiary's resume "clearly reflects that he held that position, as do the documents submitted concerning Team Roberts." Counsel asserts that "the international, honored stature of Team Roberts is analogous to the Penske Motor racing teams that run in the IndyCar racing series." Counsel states that the evidence submitted on appeal establishes that the beneficiary was "integrally involved in securing the team's victory at the 1997 Asian Pacific championship."

In support of these claims, the petitioner submits a letter from [REDACTED] of GP Motorsports, who states that the beneficiary was contracted to GP Motorsports Corp. during 1996 and 1997. [REDACTED] states that the company had "various operations participating in the World Championship Roadracing Series, and that "[the beneficiary's] position as Crew Chief for the Asia Pacific team saw him responsible for the mechanics that work on the bikes as well as preparation of the machines so that they were as competitive as possible." [REDACTED] does not mention the beneficiary's association with Team Roberts or the rider Chow Yang Kit. The petitioner also provides some background material regarding the careers of Motorcycle Hall of Fame member [REDACTED] and [REDACTED] but this documentation does not corroborate the beneficiary's employment in a critical or essential capacity with Team Roberts.

The petitioner submits a letter from [REDACTED] and J.W.G. Wassink of WP Suspension B.V., who confirm that the beneficiary served as "Racing Engineer in the World Championship Road Race" during the 2000 season and as "Racing Engineer in the World Championship Super Bike as well as Technical Coordinator Race Department for all motor sport disciplines," from 2001 until August 2003. The information provided in this letter is not sufficiently detailed to establish that the beneficiary was employed by this company in a critical or essential capacity or that the company, [REDACTED], has a distinguished reputation in the sport.

The beneficiary indicates in his resume that he served as "Head of Suspension Development" in Italy and worked with four major motorcycle manufacturers to develop new products, but he does not identify the name of his

employer during this time period or provide any corroborating evidence of his employment or the nature of his duties.

The beneficiary's resume alone does not provide sufficient evidence of his employment in a critical or essential capacity with an organization or organizations that have a distinguished reputation in his field, and the two employment letters offered do little more than confirm his job titles and dates of employment during the period 1996 to 1997 and 2000 to 2003. The rest of the information in the beneficiary's resume remains uncorroborated. An alien of extraordinary ability is one whose achievements have been recognized in the field through extensive documentation, which is why a self-prepared document such as a professional resume, has little probative value. The petitioner has not established that the beneficiary meets the seventh criterion.

The eighth and final criterion requires the petitioner to submit evidence that the beneficiary has either commanded a high salary or will command a high salary or other remuneration for services, evidenced by contracts or other reliable evidence. 8 C.F.R. § 214.2(o)(3)(iii)(B)(8). The petitioner indicated on Form I-129 that the beneficiary will receive an annual salary of \$85,000, plus bonuses valued at up to \$100,000 per year. The petitioner submitted a contract corroborating the offered salary, and confirming that the beneficiary will receive bonuses "based upon the official final finishing order of each race that [the petitioner] competes in," as well as quarterly merit-based bonuses based on his overall job performance. The petitioner stated that the beneficiary "will be paid a salary which is twice that of what an average race crew team member earns."

The petitioner did not address this criterion when responding to the RFE, and the director determined that the petitioner did not attempt to establish that the beneficiary meets this criterion.

On appeal, counsel states that "unlike ordinary race data profilers who lack the unique coaching and training expertise he possesses, [the beneficiary] will also be paid bonuses based upon the successes of [the petitioner's] team, up to and including 10% of the team's First Place Finish awards." Counsel asserts that such terms are clearly stated in the petitioner's contract with the beneficiary, but not mentioned in the director's notice of decision.

Upon review, the petitioner has not established that the beneficiary meets this criterion. The petitioner has *submitted its written contract with the beneficiary, as required by regulation*, but it has not submitted any objective supporting evidence to corroborate its claim that the beneficiary's compensation would be double that of what an average race team crew member earns, such that it would be considered a "high salary" commensurate with extraordinary ability. Such evidence could include statistical comparisons of the salaries in the field of endeavor. Again, 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. at 165.

Finally, the AAO acknowledges counsel's claim that the director failed to consider the various letters from peers, employers and collaborators as "comparable evidence" of the beneficiary's qualifications, pursuant to 8 C.F.R. § 214.2(o)(3)(iii)(C). In denying the petition, the director determined that USCIS need not accept comparable evidence simply because the petitioner is unable to meet the applicable criteria. The director further emphasized that any comparable evidence must be objective evidence of national or international acclaim.

Counsel contends that the director misstated and mischaracterized the law, noting that the regulation at 8 C.F.R. § 214.2(o)(3)(iii)(C) "specifically establishes the opportunity for aliens applying for an O-1 Visa to submit evidence that they possess extraordinary ability when the usual criteria do not fit the situation.

The full text of 8 C.F.R. § 214.2(o)(3)(iii)(C) reads: "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 wording provides that there must be some showing that the criteria "do not readily apply to the beneficiary's occupation." As to who must make that showing, there is no presumption in the petitioner's favor. Section 291 of the Act, 8 U.S.C. § 1361, places the burden of proof on the party seeking benefits. It is the petitioner's burden to show that the criteria do not readily apply to the beneficiary's occupation, and it is also the petitioner's burden to establish that the alternative evidence is, indeed, comparable to the caliber of evidence described in the standard criteria listed at 8 C.F.R. § 214.2(o)(3)(iii)(A) and (B). Here, the petitioner has, throughout the proceeding, submitted evidence categorized according to the regulatory criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B), and in fact claims that the majority of the criteria are applicable to the beneficiary's occupation.

Furthermore, whether or not one relies on the "comparable evidence" clause, the burden is still on the petitioner to show that the beneficiary "is one of the small percentage who have arisen to the very top of the field of endeavor" as required by 8 C.F.R. § 214.2(o)(3)(ii) and has earned "sustained national or international acclaim" as required by section 101(a)(15)(O)(i) of the Act and 8 C.F.R. § 214.2(o)(1)(ii)(A)(1).

Counsel requests that the letters from the petitioner, [REDACTED] and [REDACTED], the American Motorcycle Association and [REDACTED] be considered comparable evidence of the beneficiary's extraordinary ability. Counsel asserts that "the fact that they have bestowed upon [the beneficiary] the honor and privilege of working for them is irrefutable evidence that he has earned a distinguished reputation in the racing industry and has surpassed his peers." Counsel contends that the director "grossly understated [the beneficiary's] extraordinary talents and skills," contrary to the totality of the evidence submitted.

Counsel further suggests that the fact that the petitioner offered the beneficiary a position is evidence of his extraordinary ability in the field. However, the regulations clearly require more than an impressive resume and a job offer from an employer with a distinguished reputation. The AAO does not doubt that the beneficiary is highly skilled and sought after within his field and has worked in the sport at the international level of competition. However, as noted above, even when written by independent experts, letters solicited by an alien in support of a visa petition carry less weight than preexisting, independent evidence of recognition for achievements that one would expect of an alien who has achieved sustained national or international acclaim. The letters solicited by the beneficiary speak more to his talent and unique abilities, and the general importance of the work of race data profilers in the sport, than the beneficiary's own sustained recognition for accomplishments in the field. Apart from the support letters, the record contains little evidence of the recognition of the beneficiary's accomplishments in his field.

Overall, the record does not establish that the beneficiary has extraordinary ability in either science or athletics, which has been demonstrated by sustained national or international acclaim and that his achievements have been recognized in the field through extensive documentation, as required by section 101(a)(15)(O) of the Act. The petitioner submitted no evidence that the beneficiary has received a major, internationally recognized award and the documentation submitted does not meet three of the eight other evidentiary criteria specified in the regulation at 8 C.F.R. § 214.2(o)(3)(iii)(B). Consequently, the beneficiary is not eligible for nonimmigrant classification under section 101(a)(15)(O) of the Act and the petition must be denied.

As noted above, 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 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 have not yet risen to this level.

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, the petitioner has not met that burden.

**ORDER:** The appeal is dismissed.