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U.S. Department of Homeland Security  
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**U.S. Citizenship  
and Immigration  
Services**



09

File: EAC 07 138 51199 Office: VERMONT SERVICE CENTER Date: **FEB 02 2009**

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

Petition: Petition for a Nonimmigrant Worker under 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:

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 Director, Vermont Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will summarily dismiss the appeal.

The petitioner filed the instant petition seeking to classify the beneficiary as an O-1 nonimmigrant pursuant to section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the Act), as an alien of extraordinary ability in business. The petitioner operates a golf course and seeks to employ the beneficiary in the position of golf development manager for a period of 19 months.

The director denied the petition on September 7, 2007, concluding that the petitioner failed to meet any of the evidentiary criteria set forth at 8 C.F.R. § 214.2(o)(3)(iii), and therefore did not demonstrate that the beneficiary is one of the small percentage of people who has risen to the very top of his field of endeavor. The director also denied the petition based on the petitioner's failure to submit a written consultation from a labor organization as required by 8 C.F.R. § 214.2(o)(5)(ii).

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO. On appeal, the petitioner states that it is filing an appeal "based on the fact that more evidence is available on this case." The additional evidence is comprised of: (1) a copy of the biographical page of the beneficiary's passport; (2) a copy of the beneficiary's Form I-94W;<sup>1</sup> and (3) a reference letter from the petitioner setting forth the beneficiary's proposed duties, and the petitioner's opinion that he has "a good repose with our clientele and a good knowledge of the game of golf."

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) states, 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 evidentiary criteria for aliens seeking classification as O-1 aliens with extraordinary ability in the fields of science, education, business or athletics are set forth at 8 C.F.R. § 214.2(o)(3)(iii). Specifically, the petitioner must establish that the beneficiary meets the criteria at 8 C.F.R. § 214.2(o)(3)(iii)(A), three of the

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<sup>1</sup> The AAO notes, beyond the decision of the director, that the beneficiary entered the United States under the Visa Waiver Program and is ineligible for a change of status to O-1. Upon admission under this program, the applicant is admitted for a period of 90 days and is ineligible for an extension of stay or change to a new nonimmigrant status. 8 C.F.R. § 248.2(a)(6).

eight criteria set forth at 8 C.F.R. § 214.2(o)(3)(iii)(B). If the criteria do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence in order to establish the beneficiary's eligibility. 8 C.F.R. § 214.2(o)(3)(iii)(C). The evidence submitted must demonstrate that the beneficiary has earned sustained national or international acclaim and recognition for achievements in the field.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition. The director denied the petition based on the petitioner's failure to submit evidence to meet any of the above-referenced criteria. The petitioner was filed with a copy of the beneficiary's Bachelor of Arts degree in golf management, awarded in June 2006, and a reference letter from the beneficiary's former employer, who spoke highly of the beneficiary's work ethic and attendance record during his seven-month tenure as a golf steward.

Accordingly, the director subsequently issued a request for evidence (RFE) on June 19, 2007 instructing the petitioner to submit documentation to satisfy the evidentiary requirements set forth at 8 C.F.R. § 214.2(o)(3)(iii), as well as the required written consultation from a peer group or labor organization in the beneficiary's field of endeavor. The evidentiary requirements for O-1 classification were clearly set forth in the RFE.

In response to the RFE, the petitioner submitted a letter from the beneficiary's former university professor, who praised the beneficiary's performance as a student, and discussed the beneficiary's experience in planning, organizing and managing golf and soccer competitions, as well noting the beneficiary's interest in golf and business management. The petitioner also submitted a reference letter from a golf resort that employed the beneficiary as part of its golf operations team during the summer of 2004.

Based on the evidence submitted, the director properly concluded that the beneficiary has not achieved sustained national or international recognition and acclaim in his field, and therefore, does not qualify for the O-1 visa classification. The record shows that the beneficiary, while highly regarded by his two former employers, is a recent college graduate with limited experience and no recognized achievements in the golf course management field.

On appeal, the petitioner does not identify an erroneous statement of fact or conclusion of law on the part of the director. The petitioner does not specifically object to the denial of the petitioner or even acknowledge the grounds for denial. Rather, the petitioner asserts that additional evidence is available and submits a copy of the beneficiary's I-94 card, passport page, and a letter which simply sets forth the beneficiary's proposed duties in the United States. The petitioner does not explain how such evidence establishes the beneficiary's eligibility for the O-1 visa classification.

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.

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 failed to identify specifically an erroneous conclusion of law or a statement of fact in support of the appeal, the petitioner has not sustained that burden.

**ORDER:** The appeal is summarily dismissed.