

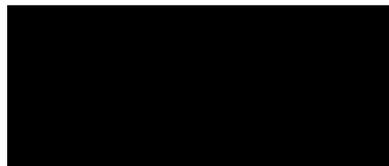
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**



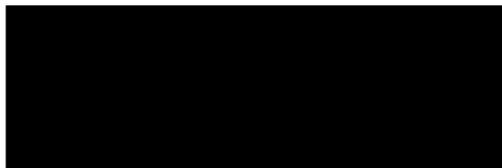
D9

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: DEC 16 2010

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

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:



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, with a fee of \$630. 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, California Service Center, denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner filed a Form I-129, Petition for a Nonimmigrant Worker, seeking classification of 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), as an internationally-recognized athlete. The petitioner, an equestrian show jumping barn, states that it intends to employ the beneficiary as an equestrian horse show jumper / rider for a period of five years. The beneficiary was granted P-1 classification on three prior occasions with different employers in 2004, 2007 and 2008.

The director denied the petition on March 22, 2010, citing three independent and alternative grounds for denial. Specifically, the director found that the petitioner failed to establish: (1) that the beneficiary is currently an internationally-recognized athlete; (2) that the beneficiary is coming to the United States to participate in an athletic competition which has a distinguished reputation and which requires participation of an athlete that has an international reputation; and (3) that the beneficiary will be providing services associated with an internationally-recognized athlete. In this regard, the director noted that many of the beneficiary's proposed duties resemble those of a horse trainer rather than those of a P-1 athlete.

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, the petitioner submits a brief statement from its manager.

Under section 101(a)(15)(P)(i) of the Act, an alien having a foreign residence which he or she has no intention of abandoning may be authorized to come to the United States temporarily to perform services for an employer or sponsor. Section 214(c)(4)(A)(i)(I) of the Act, 8 U.S.C. § 1184(c)(4)(A)(i)(I), provides that section 101(a)(15)(P)(i)(a) of the Act applies to an alien who performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance. Section 214(c)(4)(A)(ii)(I) of the Act, 8 U.S.C. § 1184(c)(4)(A)(ii)(I), provides that the alien must seek to enter the United States temporarily and solely for the purpose of performing as such an athlete with respect to a specific athletic competition.

The evidentiary requirements for internationally-recognized athletes under section 101(a)(15)(P)(i) of the Act are set forth at 8 C.F.R. § 214.2(p)(4)(ii)(B). The regulation at 8 C.F.R. § 214.2(p)(4)(ii)(A) provides that the athlete must be coming to the United States to participate in an athletic competition which has a distinguished reputation and which requires participation of an athlete or athletic team that has an international reputation.

As noted above, the director cited multiple grounds for denial of the petition, finding that the evidence submitted does not establish that the beneficiary is currently an internationally-recognized athlete, that he will be competing for the petitioner in competitions with a distinguished reputation which require the services of an internationally-recognized athlete, or that he will be performing solely as an athlete with respect to such competitions. The director noted that the beneficiary's major successes as an equestrian appear to have occurred between 1999 and 2004 and that it had not been shown that he is currently competing at a level commensurate with an internationally-recognized athlete. Furthermore, the director found that, based on the

petitioner's description of the beneficiary's proposed duties, his services for the petitioner would include duties that are typically assigned to a trainer or assistant.

On appeal, the petitioner submits a statement from its manager, [REDACTED] who states:

We are a family-owned business founded on the training, managing, and development of horses specifically for the performance sport of show jumping. It has come to my attention that in order for our business to mature into an internationally recognized training facility and staff, the assistance of personnel with experience and recognition in the development of horses will be required.

I currently compete at the International Grand Prix level and am a ranked rider under the FEI standings. Without the assistance of a knowledgeable horseman such as [the beneficiary], it is my feeling that [the petitioner] will incur significant financial losses [sic] due to the lack of outstanding performance or the acknowledgement from the national and international communities. It has been taken into consideration that [the beneficiary], himself, does not have significant results at the international level from the last few years. However, during this time he has earned the acknowledgement and respect of national and international riders, trainers, and horsemen alike. He has acquired invaluable experience in working with top international icons, [REDACTED] and [REDACTED] specifically developing their horses for competition. He is recognized as an extraordinary rider . . . proven capable of competing at the international level, and his ability to develop horses is outstanding. Having [the beneficiary] as a working partner will greatly improve the development of our horses . . . as well as bring us attention and acknowledgement from the national and international communities as an international training staff and facility.

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 denial of the petition. The petitioner has not identified an erroneous conclusion of law or statement of fact on the part of the director as a basis for the appeal. Rather, the petitioner essentially concedes that the beneficiary is not currently competing at the international level as an athlete and that he is being hired to provide "assistance" in the form of training and horse development for the petitioner's ranked rider. The petitioner does not attempt to overcome the director's specific grounds for denial, which were discussed in significant detail in the seven-page notice of decision. While the petitioner appears to suggest that the beneficiary is internationally-recognized as a horse

trainer, the P-1 classification is reserved for competitive athletes. If the petitioner seeks to employ the beneficiary primarily as a trainer or assistant, it may file a new petition in an appropriate visa classification.

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.