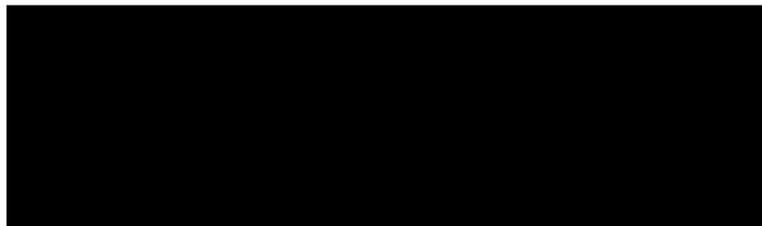


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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



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



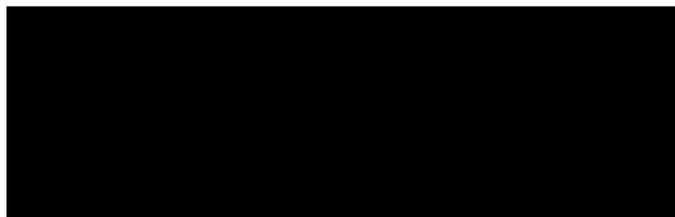
Dq

FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: **DEC 22 2010**

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

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

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.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

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

The petitioner filed a Form I-129, Petition for a Nonimmigrant Worker, seeking classification of the beneficiaries as essential support personnel to a P-1 athlete pursuant to section 101(a)(15)(P)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(P). The petitioner is self-described as an agency providing attorneys and accountants for professional athletes. It seeks to classify the beneficiary as a P-1S essential support personnel so that he may serve as a polo groom/rider, horse trainer and manager for P-1 visa holder and professional polo player Santiago Bottaro for a period of approximately 27 months.

The director denied the petition, concluding that the petitioner failed to establish that the beneficiary's services are essential to the performance of the P-1A alien or that such services could not be performed by a United States worker. In denying the petition, the petitioner noted that the principal athlete has held P-1 status since at least May 2002, and thus has been without the beneficiary's services in the United States for nearly eight years.

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, counsel for the petitioner asserts that the director "failed to consider the totality of the circumstances, and the individual issues surrounding the petition." Counsel further contends that "the decision was based on a lack of understanding of the structure and nature of the sport of polo and the polo industry in general." Counsel submits a brief and additional evidence in support of the appeal.

The regulation at 8 C.F.R. § 214.2(p)(3), provides, in pertinent part:

Essential support alien means a highly skilled, essential person determined by the Director to be an integral part of the performance of a P-1, P-2, or P-3 alien because he or she performs support services which cannot be readily performed by a United States worker and which are essential to the successful performance of services by the P-1, P-2, [or P-3] alien. Such alien must have appropriate qualifications to perform the services, critical knowledge of the specific services to be performed, and experience in providing such support to the P-1, P-2, or P-3 alien.

Accordingly, the petitioner must establish that the support alien will provide support to a P alien and is essential to the success of the P alien. The petitioner must also establish that beneficiary is qualified to perform the services and the services cannot be readily performed by United States workers.

The regulation at 8 C.F.R. § 214.2(p)(4)(iv) states:

- (A) *General.* An essential support alien as defined [above] may be granted P-1 classification based on a support relationship with an individual P-1 athlete, P-1 athletic team, or a P-1 entertainment group.
- (B) Evidentiary criteria for a P-1 essential support petition. A petition for P-1 essential support personnel must be accompanied by:

- (1) A consultation for a labor organization with expertise in the area of the alien's skill;
- (2) A statement describing the alien(s) prior essentiality, critical skills, and experience with the principal alien(s); and
- (3) A copy of the written contract or a summary of the terms of the oral agreement between the alien(s) and the employer.

The sole issue addressed by the director is whether the petitioner established that the beneficiary performs support services which cannot be readily performed by a United States worker and which are essential to the successful performance of services by the P-1 athlete.

In denying the petition, the director acknowledged that the petitioner established that the beneficiary and the principal athlete [REDACTED] have known each other for over 20 years and have worked directly together for at least four years/polo seasons in Argentina. However, the director found that the principal athlete has held P-1A status for nearly eight years, and as such, "it would appear that someone, other than the beneficiary, has been performing all of the beneficiary's proposed duties for that period of time." As such, the director determined that the beneficiary's services have not been shown to be essential to the performance of the P-1 alien or that the services could not be performed by a United States worker.

On appeal, the petitioner addresses this issue by submitting a letter from the beneficiary's prior P-1 employer, [REDACTED] which further explains the support needs of polo players at different levels of competition.

[REDACTED] had a P-1 visa status sponsored by the [REDACTED] in Colorado for several years. During this time, [REDACTED] participated in only low and mid-level polo tournaments and the [REDACTED] organization provided him with the essential support personnel required. Because [REDACTED] was only playing low-level polo, the requirement for essential support was not as critical as playing in high-goal tournaments. Therefore, in the time [REDACTED] was here, he never had the need to request a visa for personnel to support him.

[REDACTED] visa and work opportunities playing high-goal polo are now with J-5 Equestrian and the [REDACTED] Polo Club. Mr. [REDACTED] visa change to J-5 Equestrian from [REDACTED] Polo Club was approved on January 15, 2010. At the high-goal level, the game is more intense and competitive and a different caliber of players, horses and essential support personal [sic] are required. Consequently, once a polo player starts to compete at this level of polo, the issue of his or her essential support personnel becomes very critical, as the duties to be performed at this level of polo become more specialized (i.e., the implementation of specific training programs and horse management techniques in line with the particular player's requirements).

Counsel asserts that this letter, considered with the other evidence in the record, establishes the beneficiary's current need for his essential support personnel.

Upon review, the AAO finds the petitioner's evidence persuasive. The director's decision essentially focused on the narrow issue of whether the beneficiary had previously accompanied the P-1 athlete to the United States. However, the director's decision failed to address the substantial evidence in the record demonstrating Mr. ██████████ current need for the beneficiary's specific services. The petitioner submitted substantial testimonial evidence attesting to the working relationship between the beneficiary and ██████████ over the years in their native Argentina, as well as detailed explanations of the services the beneficiary provides, published articles substantiating that there are few qualified polo grooms who are native to the United States, and the unique skills polo grooms possess due to the nature of the sport. The petitioner has also provided a reasonable explanation as to why the principal athlete's prior P-1 employer did not petition for the beneficiary. The petitioner has also differentiated the demands placed on "high goal" polo players who compete at the upper echelons of the sport, versus those professional players who have not yet reached this level of play. ██████████ is captain of a team that has qualified for the U.S. Open in the sport. The record shows that the beneficiary, in his role as team captain for his current P-1 employer, will be relying on his own string of polo ponies that have been trained and maintained in Argentina by the beneficiary.

As such, the AAO finds that the petitioner has met its burden to establish by a preponderance of the evidence that the beneficiary does in fact provide services that are essential to the performance of the P-1 athlete and which could not be readily performed by a United States worker.

The director cited no other grounds for denying the petition, and upon *de novo* review, the AAO sees no additional basis for denial. Accordingly, the AAO will withdraw the director's decision dated March 1, 2010 and approve the petition. As always in these proceedings, the burden of proof rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Upon review, the petitioner has met its burden of proof.

ORDER: The appeal is sustained.