

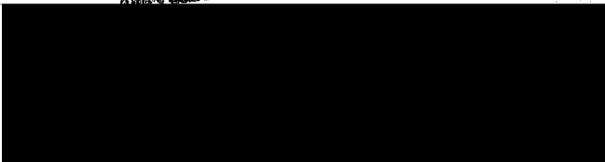


U.S. Department of Justice
Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



FILE: EAC 02 259 51763 Office: VERMONT SERVICE CENTER

Date: FEB 27 2003

IN RE: Petitioner:
Beneficiary:



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)

IN BEHALF OF PETITIONER:

SELF-REPRESENTED

PUBLIC COPY

INSTRUCTIONS:

This is the decision 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 the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner is an organization specializing in soccer. The beneficiary is a soccer coach. The petitioner seeks 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), in order to employ him temporarily in the United States as a "professional soccer trainer" for a period of one year at a weekly salary of \$700.

The director denied the petition finding that the petitioner failed to establish that the beneficiary qualifies as an alien with extraordinary ability in athletics.

On appeal, the petitioner submits additional documentation.

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.

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.

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.

8 C.F.R. §214.2(o)(5)(i)(A) requires, in pertinent part:

Consultation with an appropriate U.S. peer group (which could include a person or persons with expertise in the field), labor and/or management organization regarding the nature of the work to be done and the alien's qualifications is mandatory before a petition for O-1 or O-2 classification can be approved.

The beneficiary in this matter is a native and citizen of Italy. The record shows that the beneficiary was a player on a professional youth team in Padova, Italy until he sustained an injury. He received training at the AJAX Institute in Holland and worked as a coach for the AC Venezia youth soccer team from 1998

until 2002. He earned a degree from the University of Padova. The beneficiary co-authored a soccer manual in 1997. The beneficiary is licensed by the New Jersey Youth Soccer Association and by the United European Football Association.¹ According to the petitioner, the beneficiary has developed many youth players for professional programs, including the Italian national soccer team. The beneficiary last entered the United States as a visitor for pleasure (B-2) to recruit for AC Venezia, an Italian soccer program.

The director determined that the beneficiary has not achieved a level of coaching acclaim as contemplated by the statute or regulations. The director concluded that the evidence does not establish that the beneficiary qualifies as one of the small percentage at the top of his field of endeavor.

On appeal, the petitioner asserts that the beneficiary satisfies at least three of the eight criteria set out in 8 C.F.R. § 214.2(o)(iii)(B).

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.

There is no evidence that the beneficiary has received a major internationally recognized award equivalent to that listed at 8 C.F.R. § 214.2(o)(3)(iii)(A). Nor is the record persuasive in demonstrating that the beneficiary met at least three of the criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B).

No evidence was submitted in relation to criterion number one.

For criterion number two, while the beneficiary is a certified member of the Union of European Football Association (UEFA), there is no evidence that this association requires outstanding achievements of its members, as judged by recognized national or international experts in their discipline. The record is insufficient to establish that the beneficiary satisfies this criterion.

No evidence was provided in relation to criteria numbers three, four and five.

For criterion number six, the petitioner asserts that the beneficiary satisfies this criterion by virtue of co-authoring a soccer manual. The petitioner said that the beneficiary jointly produced the highest selling soccer manual in Italy. Simply going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). Furthermore, it is not evident

¹ According to a letter from Enrique Meana, the New Jersey Youth Soccer's Director, the UEFA coaching license is one of the most highly regarded in professional coaching.

from the record that this soccer manual was ever published in a professional journal or other major media. The beneficiary does not satisfy this criterion.

For criterion number seven, the petitioner asserts that the beneficiary has been employed in a critical or essential capacity as a coach for an organization that has a distinguished reputation, i.e., AC Venezia. The petitioner asserts that the beneficiary, along with the director of the club youth program, developed one of the best youth programs in the Italian soccer industry. In the absence of corroborating evidence such as news articles or articles in professional journals about the beneficiary's role in developing such a program, the evidence is insufficient to establish that the beneficiary satisfies this criterion.

No evidence was provided in relation to criterion number eight.

The burden of proof in these proceedings rests solely 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.

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