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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
BCIS, AAO, 20 MASS., 3/F
Washington, D.C. 20536

[redacted]

JUL 18 2003

FILE: LIN 02 207 54234 Office: NEBRASKA SERVICE CENTER Date:

IN RE: Petitioner: [redacted]
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)

ON BEHALF OF PETITIONER:

[redacted]

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 Bureau of Citizenship and Immigration Services (Bureau) 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, Nebraska Service Center. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is again before the AAO on motion to reopen and reconsider. The motion will be granted. The AAO decision shall be affirmed.

The petitioner, [redacted] is the National Governing Body of the United States Olympic Committee and is the official organization for sport skiing in the United States. The [redacted] is a part of the [redacted] The beneficiary is a former ski technician for a ski manufacturer and a technical ski coach. The petitioner seeks O-1 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 in the United States as a ski team World Cup coach, an equipment evaluator, and master ski technician for the United States National Ski Team for a period of three years at an annual salary of $36,000.

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, counsel for the petitioner asserted that the beneficiary is an alien of extraordinary ability. The AAO dismissed the appeal.

On motion, counsel for the petitioner asserts that the beneficiary has had significant international achievements and recognition as a ski technician. Counsel for the petitioner also submits additional evidence.

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.

The beneficiary in this matter is a 29-year old citizen of Slovenia. The record shows that the beneficiary has spent the last seven years preparing skis for alpine ski racing competitors, including [redacted] a member of the United States National Ski Team. The beneficiary is a former technician for a ski manufacturer (Élan Skis) and the Slovenian National Women's Ski Team. The beneficiary also provided technical ski coaching to the Norwegian Women's Ski Team and the Swedish Junior Women's Ski Team.

On appeal, counsel asserted that the criteria set forth at 8 C.F.R. § 214.2(o)(3)(iii)(B) are inapplicable to a ski technician and submitted comparable evidence to establish the beneficiary's eligibility pursuant to 8 C.F.R. § 214.2(o)(3)(iv)(C).

Initially, the petitioner submitted only testimonials or letters of reference on behalf of the beneficiary. On motion, the petitioner also submits evidence that [redacted] whom the beneficiary has been serving as ski technician, and who is presently the second overall ranked alpine skier in the world.

Counsel for the petitioner asserted that the criteria at 8 C.F.R. § 214.2(o)(iii)(B) do not readily apply, and as comparable evidence submitted a letter from the United States Olympic Committee indicating that it selected the beneficiary to serve as a ski technician based on his extraordinary ability in the field of athletics. This evidence is insufficient to establish eligibility for this restrictive visa classification, which requires extensive documentation of extraordinary achievement.

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 as a ski coach or ski technician.

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 AAO decision dated March 13, 2003, is affirmed.