U.S. Department of Justice

Immigration and Naturalization Service

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

D9

[redacted]

File: LIN-00-054-50937 Office: Nebraska Service Center Date: FEB 28 2001

IN RE: Petitioner: [redacted]
Beneficiary:

Petition: Petition for a Nonimmigrant Worker Pursuant to § 101(a)(15)(P)(i) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(P)(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 which 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 which 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 which originally decided your case along with a fee of $110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Identification data deleted to prevent clearly unwarranted invasion of personal privacy

Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a soccer club. The beneficiary is a professional athlete and soccer player. The petitioner filed a Form I-129 (Petition for a Nonimmigrant Worker) under section 101(a)(15)(P)(i) of the Immigration and Nationality Act (the "Act"), seeking P-1 classification of the beneficiary, as a change of nonimmigrant status from B-2 to P-1. The petitioning club seeks authorization to employ the beneficiary as a soccer player for a period of five years.

The director denied the petition finding that the petitioner is a local team playing in a regional league and is not a major league team as required for P-1 classification. The director also found that the beneficiary no longer holds the international recognition in athletics required for P-1 classification.

On appeal, a representative of the petitioner submitted a letter of support from a member of the Washington state legislature and additional documentation.

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) of the Act, 8 U.S.C. 1184(c)(4)(A), provides that section 101(a)(15)(P)(i) of the Act applies to an alien who:

> (i) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance, and
>
> (ii) seeks to enter the United States temporarily and solely for the purpose of performing as such an athlete with respect to a specific athletic competition.

P-1 classification is available to an alien athlete who will be a member of a major United States sports league or team. See 8 C.F.R. 214.2(p)(4)(ii)(B)(1). The petitioning team in this case is sponsored by a local restaurant chain and plays in the [redacted] of Washington State. As noted by the director, the record does not establish that the proposed position qualifies as a team in a "major" sports league pursuant to the regulations. Nothing submitted on appeal is sufficient to overcome this finding.

The director next found that the beneficiary does not qualify as an athlete eligible for P-1 classification. The director noted that

the beneficiary had not played in international/World Cup play since 1978 and had not played for a national team since 1988.

8 C.F.R. 214.2(p)(4)(i)(A) states that P-1 classification may be granted to an alien who is an internationally recognized athlete based on his or her own reputation and achievements as an individual. The alien must be coming to the United States to perform services which require an internationally recognized athlete.

8 C.F.R. 214.2(p)(4)(ii)(B) requires that a petition for an internationally recognized athlete or athletic team must include:

> (1) A tendered contract with a major United States sports league or team..., and
>
> (2) Documentation of at least two of the following:
>
> (i) Evidence of having participated to a significant extent in a prior season with a major United States sports league;
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> (ii) Evidence of having participated in international competition with a national team;
>
> (iii) Evidence of having participated to a significant extent in a prior season for a U. S. college or university in intercollegiate competition;
>
> (iv) A written statement from an official of the governing body of the sport which details how the alien ... is internationally recognized;
>
> (v) A written statement from a member of the sports media or a recognized expert in the sport which details how the alien ... is internationally recognized;
>
> (vi) Evidence that the individual ... is ranked if the sport has international rankings; or
>
> (vii) Evidence that the alien ... has received a significant honor or award in the sport.

On appeal, the petitioner submitted a copy of a resolution passed by the House of Representatives of the State of Washington recognizing the beneficiary as a past soccer star who has lent his expertise to youth soccer coaching in the state and a statement from a state representative opining that the beneficiary qualifies under the pertinent regulations.

After a careful review of the record however, it is clear that the beneficiary does not satisfy the above requirements. For example, he does not have a tendered contract with a major league team, did not participate to a significant extent in the prior season with a major United States sports league, and is not currently ranked in the sport. Therefore, it must be concluded that the petitioner has failed to overcome the director's objection.

The burden of proof in visa petition proceedings remains entirely 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.