DA

**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*

[redacted]

**Public Copy**

File: SRC-01-046-51514 Office: Texas Service Center Date: 8 SEP 2001

IN RE: Petitioner:
Beneficiary: [redacted]

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: [redacted]

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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

Myra L. Rosenberg
for Robert P. Wiemann, Acting Director
Administrative Appeals Office

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

The petitioner is a martial arts academy. The beneficiary is described as a monk and a martial arts master. 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"). The petitioner seeks to employ the beneficiary temporarily in the United States as a martial arts instructor for a period of three years.

In the decision, the director denied the petition finding that P-1 classification is available to athletes to compete in specific events and that a job offer as an instructor was not qualifying.

On appeal, counsel for the petitioner argued that the beneficiary has been and will compete as an athlete.

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.

8 C.F.R. 214.2(p)(1)(ii) provides for P-1 classification of an alien:

> (1) To perform at specific athletic competition as an athlete, individually or as part of a group or team, at an internationally recognized level or performance...

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, or a tendered contract in an individual sport commensurate with international recognition in that sport, if such contracts are normally executed in the sport....

After careful review of the record, it is determined that the petitioner failed to overcome the grounds for denial of the visa petition.

An alien athlete having an internationally recognized reputation may be granted P-1 classification to perform at a single competition or event or for an athletic season or tour appropriate to the sport as an individual athlete or member of an athletic team. 8 C.F.R. 214.2(p)(1)(ii)(A)(1). In the case of athletes, P-1 classification is available to such an alien who seeks to enter the United States temporarily and solely for the purpose of performing as an athlete with respect to a specific athletic competition. Section 101(a)(15)(P)(i) of the Act. The petitioner in this case seeks to employ the beneficiary primarily as a full-time instructor at its facility, even though he may also compete in events or serve as a judge of events. The alien does not seek admission solely to compete as an internationally recognized athlete at specific events. Therefore, the beneficiary is ineligible for the classification sought.

The denial of this petition is without prejudice to the filing of a new petition for any other visa classification for which the beneficiary may be eligible.

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.