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U.S. Department of Justice

Immigration and Naturalization Service

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

[redacted]

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

File: LIN 02 114 52659 Office: NEBRASKA SERVICE CENTER Date: JAN 23 2003

IN RE: Petitioner: [redacted]
Beneficiary:

Petition: Petition for a Nonimmigrant Worker Pursuant to Section 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]

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.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Nebraska Service Center director. The petitioner appealed the director's decision, and the matter is now before the Associate Commissioner for Examinations, through the Administrative Appeals Office (AAO). The appeal will be dismissed.

The petitioner is a limited liability corporation engaged in the sale, brokerage, training and competition of horses. The beneficiary is a professional equestrian groom. 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) for a period of ten years. The petitioner seeks to employ the beneficiary temporarily in the United States as an equestrian professional groom.

The director denied the petition, finding that the record was insufficient to show that the petitioner is an internationally recognized athlete or that he is an essential support person to an internationally recognized athlete.

On appeal, counsel for the petitioner submits a brief and additional documentation. Counsel for the petitioner argues that the petitioner requires a rider of international stature, and not support staff. Counsel for the petitioner asserts that the beneficiary is an internationally recognized 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)(i) provides for P-1 classification of an alien:

> *General.* Under section 101(a)(15)(P) of the Act, an alien having a residence in a foreign country 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 a sponsor. Under this nonimmigrant category, the alien may be classified

> under section 101(a)(15)(P)(i) of the Act as an alien who is coming to the United States to perform services as an internationally recognized athlete, individually or as part of a group or team . . .

8 C.F.R. 214.2(p)(1)(ii)(A) 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 of performance . . .

8 C.F.R. 214.2(p)(2)(ii) requires, in part, that a petition for an internationally recognized athlete include:

> (A) The evidence specified in the specific section of this part for the classification;
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> (B) Copies of any written contracts between the petitioner and the alien beneficiary or, if there is no written contract, a summary of the terms of the oral agreement under which the alien(s) will be employed; and
>
> (C) An explanation of the nature of the events or activities, the beginning and ending dates for the events and activities, and a copy of any itinerary for the events and activities; and
>
> (D) A written consultation from a labor organization.

8 C.F.R. 214.2(p)(3) states that:

> *Internationally recognized* means having a high level of achievement in a field evidenced by a degree of skill and recognition substantially above that ordinarily encountered, to the extent that such achievement is renowned, leading, or well-known in more than one country.

8 C.F.R. 214.2(p)(4)(i)(A) provides, in pertinent part, that:

> *P-1 classification as an athlete in an individual capacity.* A 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) sets forth the documentary requirements

for P-1 athletes as:

(A) *General.* A P-1 athlete must have an internationally recognized reputation as an international athlete or he or she must be a member of a foreign team that is internationally recognized. The athlete or team must be coming to the United States to participate in an athletic competition which has a distinguished reputation and which requires participation of an athlete or athletic team that has an international reputation.

(B) *Evidentiary requirements for an internationally recognized athlete or athletic team.* A petition for an athletic team must be accompanied by evidence that the team as a unit has achieved international recognition in the sport. Each member of the team is accorded P-1 classification based on the international reputation of the team. A petition for an athlete who will compete individually or as a member of a U.S. team must be accompanied by evidence that the athlete has achieved international recognition in the sport based on his or her reputation. A petition for a P-1 athlete or athletic team shall 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, 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;

(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 a major U.S. sports league or an official of the governing body of the sport which details how the alien or team 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 or team is internationally recognized;

(vi) Evidence that the individual or team is ranked if the sport has international rankings; or

(vii) Evidence that the alien or team has received a significant honor or award in the sport.

8 C.F.R. 214.2(p)(7)(i) requires, in pertinent part:

(A) Consultation with an appropriate labor organization regarding the nature of the work to be done and the alien's qualifications is mandatory before a petition for P-1, P-2, or P-3 classification can be approved.

The director determined that the petitioner failed to establish that the beneficiary is an internationally recognized athlete.

As evidence that the beneficiary is an internationally recognized athlete, the petitioner provided the Service with documentation that the beneficiary has participated in the 1996 summer Olympic games in Atlanta, Georgia, in the Pan American Games in Winnipeg, Canada in the summer of 1999 and in the 2000 Olympic Games in Sydney, Australia as a groom for the Brazilian Olympic Equestrian Team.

The evidence of record suggests that the Brazilian team received significant honors at the Atlanta and Winnipeg games.

The petitioner also indicated that the beneficiary competed in 13 competitions and placed in seven competitions. The petitioner failed to submit any corroborating objective evidence in support of this statement. 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).

In review, the petitioner has failed to demonstrate that the beneficiary is an internationally recognized athlete in his own right. While the Brazilian equestrian teams at the Atlanta Olympics in 1996 and at the Pan American games in Winnipeg in 1999 appear to satisfy the minimal documentary requirements of 8 C.F.R. 214.2(p)(4)(ii)(B)(2)(ii) and (vii), it must be noted that the beneficiary is not coming to the United States as a groom of an internationally recognized equestrian team. The petitioner indicates that the beneficiary "will be the only member of Greenfield Farms team. [The beneficiary] will train the horses he

rides, groom the horses he rides and compete with said horses." The Brazilian equestrian team may have satisfied the documentary requirements listed at 8 C.F.R. 214.2(p)(4)(ii)(B)(2)(ii) and (vii); however, the beneficiary is coming to the United States to perform as an individual athlete for the petitioner. The petitioner has not presented any documentation that the beneficiary has enjoyed any international recognition as an equestrian in his own right.

Further, the petitioner has not presented evidence that the beneficiary has a contract to compete as an equestrian in the United States commensurate with international recognition in the sport as required by 8 C.F.R. 214.2(p)(4)(ii)(B)(1). The petitioner has summarized the oral terms of a contract with the beneficiary still under negotiations, to include room and board, 10% of net winnings, health insurance, transportation, and minimal salary. These terms do not appear to reward the beneficiary handsomely in recognition of his status as an internationally recognized equestrian.

The director also determined that the petitioner failed to establish that the beneficiary is an essential support person to an internationally recognized athlete.

8 C.F.R. 214.2(p)(3) states, in pertinent part, that:

> *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. 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.

In the instant case, the beneficiary is not coming to the United States to serve as support to a P-1, P-2 or P-3 alien in any capacity. The beneficiary is seeking P-1 classification in his own right, as an internationally recognized athlete.

In review, the petitioner failed to establish that the beneficiary qualifies as an essential support alien.

Beyond the decision of the director, the petitioner has failed to establish that the beneficiary is coming to the United States to perform at an internationally recognized level of performance. The petitioner indicated that the beneficiary's job duties include grooming, training, and competing in horse competitions. The petitioner indicated that it wanted to hire the beneficiary to complete in international competitions. 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). The petitioner also failed to provide the Service with an explanation of the nature of the events or activities, and the beginning and ending dates for the events and activities as is required by the regulations. Since the appeal will be dismissed for the reasons stated above, these issues need not be examined further.

In review, the petitioner failed to overcome the director's objections.

ORDER: The appeal is dismissed.