

MATTER OF PRICE

In Visa Petition Proceedings

A-29928422

*Designated by the Acting Associate Commissioner,
Examinations, December 29, 1994*

An alien seeking immigrant classification under section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A) (Supp. V 1993), has clearly established that he is an alien with extraordinary ability in athletics when he has won such internationally recognized competitions as the 1983 World Series of Golf and the 1991 Canadian Open, ranked 10th on the Professional Golfers' Association Tour in 1989, collected earnings in 1991 totalling \$714,389, provided numerous affidavits and letters of support from well-known and celebrated golfers and other experts in the field, and received widespread major media coverage for his ability on the golf course.

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The preference visa petition was approved by the director, Southern Service Center, who certified his decision to the Associate Commissioner for Examinations of the Immigration and Naturalization Service. The director's decision will be affirmed.¹

The petitioner seeks immigrant classification pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A) (Supp. V 1993), as an alien of extraordinary ability in the field of athletics. The director determined that the petitioner qualifies as an alien of extraordinary ability in the field of golf and that his proposed employment would prospectively benefit the United States.

In pertinent part, section 203(b)(1)(A) of the Act provides immigrant classification to an alien with extraordinary ability if:

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim

¹This decision was originally entered on March 27, 1992. The matter has been reopened on Service motion for the limited purpose of incorporating revisions for publication.

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and whose achievements have been recognized in the field through extensive documentation,

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry to the United States will substantially benefit prospectively the United States.

The term "extraordinary ability," as used in this section and defined at 8 C.F.R. § 204.5(h)(2) (1994), means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor.

A petition for an alien of extraordinary ability must be accompanied by evidence that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise. As provided in 8 C.F.R. § 204.5(h)(3) (1994), such evidence shall include evidence of a one-time achievement (that is, a major, internationally recognized award) or at least three of the following:

(i) Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor;

(ii) 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;

(iii) Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation;

(iv) Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought;

(v) Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field;

(vi) Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media;

(vii) Evidence of the display of the alien's work in the field at artistic exhibitions or showcases;

(viii) Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation;

(ix) Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field; or

(x) Evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales.

The fact that an athlete may be performing at the so-called "major league" level does not mean that he or she automatically meets the extraordinary ability standards. Supplementary information to Service

regulations regarding aliens of extraordinary ability notes the following:

Performance at that [major league] level may frequently help to establish that the athlete meets several of the listed criteria. However, section 203(b)(1)(A)(i) of the Act, as amended by section 121(a) of Public Law 101-649, states that the alien's extraordinary ability must be "demonstrated by sustained national or international acclaim." Not all athletes, particularly those new to major league competition, would be able to meet this standard. A blanket rule for all major league athletes would contravene Congress' intent to reserve this category to "that small percentage of individuals who have risen to the very top of their field of endeavor."

56 Fed. Reg. 60,897, 60,899 (1991).

The petitioner, a native and citizen of Zimbabwe, has been a professional golfer since 1977. The record reflects his winning the 1980 Swiss Open, finishing second in the 1982 Open Golf Championships, and securing the South African Order of Merit in 1982 and 1983. The petitioner also won the 1983 World Series of Golf. In 1991, he was victorious in both the Byron Nelson Classic and the Canadian Open. The petitioner's tournament winnings exceeded \$266,000 in 1988, \$295,000 in 1989, and \$400,000 in 1990. His 1991 earnings totaled \$714,389.

According to the Professional Golfers' Association ("PGA") Official Statistics Profile, the petitioner had an all-around ranking of 10th on the PGA Tour in 1989. His money winnings in 1990 ranked him 26th and he finished 1991 ranked 7th in earnings for the entire PGA Tour. This is significant in view of the fact that there are more than 10,000 professional golfers in the world and over 600 playing professionals in the combined U.S. PGA Tours.

The record contains numerous affidavits in support of the petition from such well-known and celebrated golfers as Jack Nicklaus, Lee Trevino, Hale Irwin, Craig Stadler, and Tom Kite. As a result of witnessing the petitioner's play on the PGA Tour since 1982, his play on the European Tour, and his 1983 World Series of Gold Championship, acclaimed golfer Ben Crenshaw states that the petitioner "has achieved widespread international recognition and universal acclaim." Similarly, the Commissioner of the PGA Tour, Deane Beman, as well as other experts in the field of golf have submitted letters attesting to the petitioner's accomplishments in the sport.

The petition is also supported by numerous articles in such national publications as *Golf Digest* and *Golf Magazine* regarding the petitioner and his ability on the golf course. Virtually every major newspaper has covered the petitioner's progress in the world of golf. "[The petitioner] rightfully can take his place among the upper echelon [of

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professional golfers],” reported USA Today,² for example, after the petitioner’s victory on the PGA Tour in 1991.

Upon careful review of the record, it is concluded that the petitioner has clearly demonstrated that he is within the small percentage of individuals who have risen to the very top of the field of golf. The evidence submitted establishes that the petitioner has sustained national or international acclaim and that his achievements have been recognized in the field of golf. As a result, the petitioner qualifies as an alien of extraordinary ability in athletics.³

Further, the petitioner has demonstrated that he will continue to work in his area of expertise in the United States. Given the enormous popularity of golf in this country with its 13,004 courses and 24.8 million golfers,⁴ it must be concluded that entry of a player of the petitioner’s ability will substantially benefit prospectively the United States.

The burden of proof in these proceedings rests solely with the petitioner. *Matter of Ma*, 20 I&N Dec. 394 (BIA 1990); *Matter of Sandoz Crop Protection Corp.*, 19 I&N Dec. 666 (Comm. 1988); *Matter of Brantigan*, 11 I&N Dec. 493 (BIA 1966). The petitioner has sustained that burden. The director’s decision, therefore, will be affirmed.

ORDER: The director’s decision is affirmed.

²Hershey, *Price’s Tag Now Can Be Changed*, USA Today, May 6, 1991, at C3.

³It should be noted that since this decision was originally rendered, the petitioner has had 17 victories, including PGA Championships in 1992 and 1994, as well as the 1994 Bell Canadian Open and 1994 British Open. He is the first to win the British Open and a PGA Championship in the same year since Walter Hagen in 1924. Golf Digest named him its Byron Nelson Award winner in 1993 and 1994, as well as the 1994 World Player of the Year. Additionally, since 1992, the petitioner has achieved 48 top-ten finishes in 85 tournaments.

The petitioner has also achieved distinction as PGA Tour Player of the Year (1993 & 1994), PGA Player of the Year (1993 & 1994), Golf Writers Association of America Male Player of the Year (1993), Jim Thorpe Mens Golfer of the Year (1993), ESPN Golfer of the Year (1993), and Arnold Palmer Leading Money Winner (1993 & 1994). In 1993, he received the Vardon Trophy.

According to the current SONY Rankings, the petitioner is ranked number one in professional golf. “By any standard,” reports The Washington Times, August 15, 1994, at B1, “[the petitioner] is the world’s best golfer.” Similarly, in the cover story for its January 1995 issue, Golf Digest labels him, “The best player on the planet.”

⁴Golf Magazine’s Encyclopedia of Golf, at 32 (1993).