Importance of Foreign Athletes to Enter or Stay in U.S.
Sungwon Bae, Texas Tech University
Raymond Kim, Kim & Min, APLC
Man-Young (Peter) Han, SUNY Cortland

Legal aspects
Abstract 2010-171

There are many foreign athletes that participate in various kinds of sport throughout the United States; in fact, professional sports in this day and age would not thrive without the help of those foreign athletes. In the last 20 years, American professional sports leagues, such as National Basketball Association (NBA), National Hockey League (NHL), and Major League Baseball (MLB), have employed many foreign athletes. Foreign athletes such as Yao Ming (NBA), Ichiro Suzuki (MLB), Chan-ho Park (MLB), Jaromir Jagr (NHL), Pavel Bure (NHL), Yves Racine (NHL), Craig Muni (NHL), Stuart Grimson (NHL), among others, have made significant contributions to American professional sports (Greenberg & Gary, 1996). With that in mind, this study examines the injustices taking place as foreign athletes attempt to gain legal immigration status to stay and work in the USA. More specifically, in Major League Baseball (MLB) and a few other sports leagues, there has been unfairness that can be easily found related to U.S. immigration laws. In addition, interpretations of these laws change frequently over the years and seem to be very ambiguous as a whole. Since major golf championships generate approximately $950 million in 2005 (SRI International, 2008), many international players want to play in the PGA or LPGA. Ultimately, this study is attempting to bring to light these wrongs and suggest solutions. In order to play for U.S. team, foreign athletes must submit the documentation that can support their eligibility for the legal immigration status to the U.S. Citizenship & Immigration Services (USCIS) to apply for getting work visas or permanent residency (so called a “green card”). It is very complicated process for foreign players to be approved for the working visas. Therefore, the purpose of this study is to examine the current immigration laws intact in regards to the athletes and immigration process based on the court decisions.

Generally, the foreign athletes require the O or P visas to legally stay and play in the professional sports league in the United States. There are many laws and court decisions that have been made, which pertain to the broad topic of immigration matters. One of the most famous court decisions made in reference to this topic was Racine v. Immigration Naturalization Service (INS). Yves Racine was a player in the National Hockey League (NHL) for the Detroit Red Wings and had his visa revoked because he could no longer establish extraordinary ability. After providing substantial evidence to the court, including information exhibiting his extraordinary ability, he was granted his visa once again. Another case dealing with the immigration matter is Grimson v. INS. Stuart Grimson was another player in the NHL who played for the Detroit Red Wings and tried to file for a visa three times. The first two times he was denied because the INS didn't see extraordinary ability exhibited through the evidence he submitted. Finally he appealed to the court, the Northern District of Illinois, and he persistently showed the same evidence to the court, which ended up presenting him with a visa. More recent case is Russell v. INS. Cam Russell played for two different teams (Chicago Blackhawks and Colorado Avalanche) during his career in the NHL. He filed for permanent residency while he was a player in the NHL, yet his first application was denied and filed again for residency. By the time this case came around, he was no longer living in the U.S. or a player in the NHL; therefore the INS won the case and he was denied a visa. Lastly, a court decision that is more current is Lee v. Ziglar. Soo Lee was the most dominant player in his time (1982-1997) as a catcher in the Korean baseball league. In 2000 he was invited to be a coach for the Chicago White Sox. Later that year, Lee filed for a “P visa”, which requires that the foreign athlete or coach must show the “extraordinary ability” in his/her field. In the end, Lee was denied a visa because he could not prove his extraordinary ability as a coach in America.

Based on those cases, foreign athletes or professional sports leagues must understand what the foreign players need to be required for their visa to play in the United States. Even though the players might be overqualified to apply the visa, they might not be approved because forms and requirements of immigration laws are getting complicated or changed quite often.