U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 21157315

Date: JUL. 19, 2022

Appeal of Vermont Service Center Decision

Form I-129, Petition for Nonimmigrant Worker (Athlete, Artist, or Entertainer – P)

The Petitioner,[1] a company that facilitates races for runners, seeks to classify the Beneficiary as an internationally recognized athlete. *See* Immigration and Nationality Act (the Act) Section 101(a)(15)(P)(i)(a), 8 U.S.C. § 1101(a)(15)(P)(i)(a). This P-1 classification makes nonimmigrant visas available to certain high performing athletes and coaches. Sections 204(i)(2) and 214(c)(4)(A) of the Act, 8 U.S.C. §§ 1154(i)(2), 1184(c)(4)(A).

The Director of the Vermont Service Center denied the petition on multiple grounds. The Director concluded that the Petitioner failed to submit sufficient evidence showing that the Beneficiary intended to perform in the United States "services which require an internationally recognized" athlete. *See* 8 C.F.R. § 214.2(p)(4)(i)(A)-(B) (2020). In addition, the Director determined that the Petitioner did not establish that the Beneficiary qualified as an internationally recognized athlete, because it did not submit sufficient documentary evidence satisfying at least two of the seven evidentiary criteria listed under 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(i)-(vii).

The Petitioner appeals, maintaining that it has established eligibility to classify the Beneficiary as an internationally recognized athlete. In these proceedings, it is the Petitioner's burden to establish, by a preponderance of the evidence, its eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012); *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010).[2] Upon *de novo* review, we will dismiss the appeal.

I. LAW

Under Sections 101(a)(15)(P)(i) and 214(c)(4)(A)(i)(I) of the Act, a foreign national 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 as an athlete, individually or as part of a group or team, at an

[1] While the Petitioner claims to be represented by an attorney, on appeal, it has not submitted a new, properly executed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative. We therefore consider the Petitioner to be self-represented as the record lacks a new, properly executed Form G-28.

[2] If a petitioner submits relevant, probative, and credible evidence that leads us to believe that the claim is "more likely than not" or "probably" true, it has satisfied the preponderance of the evidence standard. *Chawathe*, 25 I&N Dec. at 375-76.

internationally recognized level of performance. *See also* 8 C.F.R. § 214.2(p)(1)(ii)(A)(*1*). Section 214(c)(4)(A)(ii)(I) of the Act specifies that a petitioner seeking to classify a foreign national as an internationally recognized athlete must show that the foreign national is entering the United States temporarily and solely for the purpose of performing "as such an athlete with respect to a specific athletic competition." *See also* 8 C.F.R. § 214.2(p)(1)(ii)(A)(*1*) (stating a P-1 classification applies to a foreign national who is coming to the United States temporarily "[t]o perform at specific athletic competition as an athlete, individually or as part of a group or team, at an internationally recognized level of performance").

The U.S. Citizenship and Immigration Services (USCIS) Policy Manual specifies:

> Relevant considerations for determining whether competitions are at an internationally recognized level of performance such that they require the participation of an internationally recognized athlete or team include, but are not limited to:
>
> - The level of viewership, attendance, revenue, and major media coverage of the events;
> - The extent of past participation by internationally recognized athletes or teams;
> - The international ranking of athletes competing; or
> - Documented merits requirements for participants.
>
> If the record shows the participation of internationally recognized caliber competitors is currently unusual or uncommon, this may indicate that the event may not currently be at an internationally recognized level of performance. In addition, while not necessarily determinative, the fact that a competition is open to competitors at all skill levels may be a relevant negative factor in analyzing whether it is at an internationally recognized level of performance. If the event includes differentiated categories of competition based on skill level, the focus should be on the reputation and level of recognition of the specific category of competition in which the athlete or team seeks to participate.

2 *USCIS Policy Manual* N.2(A)(1), https://www.uscis.gov/policy-manual/volume-2-part-n-chapter-2; *see also* USCIS Policy Alert PA-2021-04, *Additional Guidance Relating to P-1A Internationally Recognized Athletes* 1-2 (Mar. 26, 2021), https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20210326-Athletes.pdf.

Moreover, the regulation at 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*) requires that a petitioner submit documentation satisfying at least two of the following seven evidentiary criteria regarding the beneficiary:

> (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 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.

II. ANALYSIS

According to page 4 of the petition, the Petitioner seeks to have the Beneficiary work as a "middle and long distance runner." The record includes an unsigned agreement between the Petitioner and the Beneficiary, indicating that the Petitioner "agrees to file [a Form] I-129 for [the B]eneficiary," and the Beneficiary "agrees to following the competition and training schedule in his itenarary [*sic*]" and that his "[c]ompensation is based on the races he [will] win."

The Petitioner has not established eligibility to classify the Beneficiary as an internationally recognized athlete because it has not submitted documentation regarding the Beneficiary that satisfies at least two of the seven evidentiary criteria. *See* 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*). On appeal, the Petitioner argues that it has presented evidence satisfying the following four criteria.

> *A written statement from an official of the governing body of the sport which details how the alien or team is internationally recognized.* 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(iv).

On appeal, the Petitioner does not indicate that it has submitted a statement from USA Track and Field (USATF), which it claims to be the governing body of the sport of middle and long distance running. Instead, it argues that we should consider that it had attempted to obtain such a statement, but that it had not been successful "in the era of COVID-19." The Petitioner offers correspondence it sent to USATF, requesting a "No Objection Letter." The record, however, lacks evidence explicitly required by this criterion, specifically, "[a] written statement from an official of the governing body of the sport which details how the [Beneficiary] is internationally recognized." As such, the Petitioner has not satisfied this criterion, irrespective of its efforts to obtain the relevant evidence.

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. 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(v).

On appeal, the Petitioner asserts that it meets this criterion because it has offered letters from the president of the [redacted] Runners' Club, [redacted] and from "other . . . long-distance runners who have been recognized as individuals who perform at an internationally recognized level of performance." The letters include those authored by runners [redacted] and [redacted]

The Petitioner does not claim that the authors of the letters are "member[s] of the sports media." Instead, it claims that they constitute "recognized experts in the sport." 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(v). The evidence, however, is insufficient to support this claim. In his March 2020 letter, [redacted] indicates that he has been the president of the [redacted] Runners' Cub for over 40 years, and that he has been "working with and advising international long distance runners who have come to the United States." [redacted] states in his letter that he is "an elite international athlete," who has "won many races in [his] career as a long distance runner." [redacted] claims in his letter that he is "an international long distance runner who has competed in many countries" and that he is "an [a]thlete of extraordinary ability." [redacted] provides in his letter that he is "an elite . . . long distance runner who competes in races internationally [and] in the United States," and that he has been "granted P visa status."

The Petitioner has not offered sufficient evidence substantiating the claim that the authors qualify as "recognized expert[s] in the sport." While [redacted] has been involved in the sport for many years and holds an important position in a running team in [redacted] the record does not include evidence confirming that others in the sport regard him as a recognized expert. Similarly, the Petitioner has not shown that athletes, such as [redacted] and [redacted] who have achieved some level of success in a sport are considered recognized experts without corroborating evidence concerning their status as recognized experts.

Regardless, the letters do not detail how the Beneficiary is internationally recognized, as required under 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(v). [redacted] letter discusses the Beneficiary's competitive successes in races in several countries, including the United States, as well as his involvement in running clubs in the United States. [redacted] letter, however, is insufficient to demonstrate that the Beneficiary is recognized internationally. The Petitioner has not shown that claims and evidence that an athlete has participated in competitions in different parts of the world, without additional documentation of the individual's status as internationally recognized in the sport, is sufficient under this criterion. Significantly, while the record includes articles noting the Beneficiary's placements in various races, the articles do not provide other information about the Beneficiary, discuss the level of his recognition in the sport, or claim that he is internationally recognized in the sport. Similarly, while the letters from [redacted] and [redacted] discuss the Beneficiary's finishes in races, they do not discuss his level of recognition or establish that he is internationally recognized. As such, the Petitioner has not satisfied this criterion.

Evidence that the individual or team is ranked if the sport has international rankings. 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(vi).

On appeal, the Petitioner argues that it has satisfied this criterion because it has presented "ample evidence showing significant ranking results per race and [the Beneficiary's] overall ranking." The record includes printouts concerning races in which the Beneficiary has participated. Each of these printouts includes different rankings, such as "OVE," "MAL," "M25," "Overall," "Male," and "M Overall." The Petitioner has not submitted evidence showing that the rankings are international rankings. Rather, as the Petitioner has explained on appeal, and as it is evident from the printouts, these rankings relate to each individual race. As explained in the Director's decision, "while this data indicated the [B]eneficiary's ranking within each individual race, the data does not reflect international ranking within the sport," as required under the criterion. As such, the Petitioner has not satisfied this criterion.

Evidence that the alien or team has received a significant honor or award in the sport. 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(vii).

On appeal, the Petitioner maintains that the Beneficiary "has received prize money for winning races." Specifically, it claims to have presented a printout from "Association of Road Racing Statisticians (ARRS) showing [redacted] award to [the B]eneficiary." The referenced document, however, is not in the record. Additionally, even if we were to accept that the Beneficiary has received monetary rewards for his competitive successes, the Petitioner has not presented sufficient documentation confirming that the amount he has received over the course of his career sufficiently shows that he has received a significant honor or award in the sport. *See* 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(vii). While the record also includes evidence of the Beneficiary's competitive achievements, the Petitioner has not established through supporting evidence that these achievements rise to the level of "significant honor or award in the sport." As such, the Petitioner has not satisfied this criterion.

Based on the reasons we have discussed above, the Petitioner has not met the requirements under 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*). Specifically, it has not submitted documentation satisfying at least two of the seven listed evidentiary criteria.

III. CONCLUSION

The Petitioner has not demonstrated its eligibility to classify the Beneficiary as an internationally recognized athlete because it has not met the requirements under 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*).[3] The appeal will be dismissed for the above stated reasons. In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act; *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. at 806. Here, that burden has not been met.

ORDER: The appeal is dismissed.

[3] In light of our findings, we need not consider the Director's alternate ground of denial: the Petitioner did not submit sufficient evidence showing that the Beneficiary intended to perform in the United States "services which require an internationally recognized" athlete. *See* 8 C.F.R. § 214.2(p)(4)(i)(A)-(B). We reserve this and other eligibility issues for consideration if the need arises.