

(b)(6)



U.S. Citizenship
and Immigration
Services



DATE: JAN 26 2015

Office: CALIFORNIA SERVICE CENTER

FILE: 

IN RE: Petitioner:
Beneficiaries:



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)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner, a thoroughbred training facility, filed a Form I-129, Petition for a Nonimmigrant Worker, seeking P-1S classification of the beneficiaries as essential support personnel pursuant to section 101(a)(15)(P)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(P)(i). The petitioner seeks an extension of the beneficiaries' P-1S status for a period of five years¹ so that they may work as [REDACTED] for [REDACTED] on whose behalf the petitioner concurrently filed a petition for P-1 classification ([REDACTED]). The beneficiaries were previously granted P-1S status to provide essential support services to P-1 athletes.

The director denied the petition on May 23, 2014, based on the denial of the P-1 petition. The director emphasized that the status of the essential support personnel is contingent upon the approval of the principal's P-1 status. The petitioner subsequently appealed both denials. The director declined to treat the appeals as motions and forwarded the appeals to us for review. We dismissed the petitioner's appeal of the P-1 petition denial on January 12, 2015.

In the instant appeal, the petitioner does not address the ground for denial, which is that the petitioner did not establish that the principal alien for which the beneficiaries seek to provide essential support services has been granted classification as a P-1 athlete. Instead, the petitioner addresses the grounds for denial of the P-1 classification petition submitted on behalf of [REDACTED] and public policy issues pertaining to that petition.

The regulation at 8 C.F.R. § 214.2(p)(3), provides, in pertinent part:

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 because he or she performs support services which cannot be readily performed by a United States worker and which are essential to the successful performance of services by the 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.

Accordingly, the petitioner must establish that the support alien will provide support to a P alien and is essential to the success of the P alien. The petitioner must also establish that beneficiary is qualified to perform the services and the services cannot be readily performed by United States workers.

¹ The regulation at 8 C.F.R. § 214.2(p)(8)(iii)(E) provides that petitioners for essential support personnel to P-1, P-2 and P-3 aliens shall be valid for a period of time determined by the Director to be necessary to complete the event, activity or performance for which the P-1, P-2 or P-3 alien is admitted, not to exceed 1 year.

The regulation at 8 C.F.R. § 214.2(p)(4)(iv) states:

- (A) *General.* An essential support alien as defined [above] may be granted P-1 classification based on a support relationship with an individual P-1 athlete, P-1 athletic team, or a P-1 entertainment group.
- (B) Evidentiary criteria for a P-1 essential support petition. A petition for P-1 essential support personnel must be accompanied by:
 - (1) A consultation for a labor organization with expertise in the area of the alien's skill;
 - (2) A statement describing the alien(s) prior essentiality, critical skills, and experience with the principal alien(s); and
 - (3) A copy of the written contract or a summary of the terms of the oral agreement between the alien(s) and the employer.

The sole issue to be addressed in this proceeding is whether U.S. Citizenship and Immigration Services (USCIS) may approve a P-1S petition when the principal alien to which the beneficiaries will provide essential support services has been denied classification as a P-1 athlete.

Upon review, the evidence of record supports the director's determination. As noted by the director, the regulations governing the P-1S classification provide that the status of the essential support personnel is contingent upon approval of the principal's P-1 status. The petitioner concurrently filed the instant petition with the P-1 petition for [REDACTED] on January 14, 2014.

The director denied the P-1 classification petition on May 22, 2014. The petitioner subsequently appealed the director's decision, and the AAO dismissed the petitioner's appeal. The petitioner has not submitted any evidence in support of the instant appeal indicating that USCIS has approved a new P-1 petition for the principal alien for the requested validity period of December 15, 2013 to December 14, 2018.

Therefore, as the principal alien for which the beneficiaries seek to provide essential support services has not been granted classification as a P-1 athlete, the director appropriately denied the petition. The appeal is dismissed.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, the petitioner has not met that burden.

ORDER: The appeal is dismissed.