

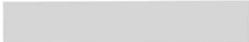


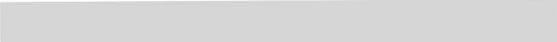
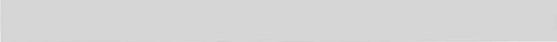
U.S. Citizenship
and Immigration
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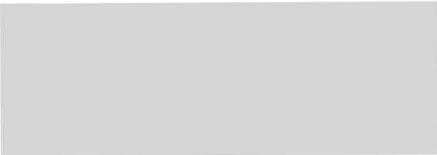
DATE: **JUL 22 2015**

PETITION RECEIPT #: 

IN RE: Petitioner: 
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)

ON BEHALF OF PETITIONER:



Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

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. We will dismiss the appeal.

The petitioner filed the nonimmigrant petition seeking to classify the beneficiary as an internationally-recognized athlete under 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, a sports and training club, seeks to temporarily employ the beneficiary as a competitive table tennis athlete for a period of three years. The director denied the petition, concluding that the petitioner did not establish that the beneficiary is coming to the United States to compete in an athletic competition or competitions which require participation of an athlete who has an international reputation. *See* 8 C.F.R. § 214.2(p)(4)(ii)(A).

On appeal, the petitioner asserts that all requirements for P-1 classification have been met. The petitioner indicated on the Form I-290B, Notice of Appeal or Motion, that it would submit a brief and/or evidence to us within 30 days. As of this date, we have not received a supplemental brief or additional evidence. Accordingly, we will adjudicate the appeal based on the assertions in the December 5, 2014 letter accompanying the appeal.

I. Pertinent Law and Regulations

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)(i) of the Act, 8 U.S.C. § 1184(c)(4)(A)(i), provides that section 101(a)(15)(P)(i)(a) 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;
- (II) is a professional athlete, as defined in section 204(i)(2);
- (III) performs as an athlete, or as a coach, as part of a team or franchise that is located in the United States and a member of a foreign league or association of 15 or more amateur sports teams, if –
 - (aa) the foreign league or association is the highest level of amateur performance of that sport in the relevant country;
 - (bb) participation in such league or association renders players ineligible, whether on a temporary or permanent basis, to earn a scholarship in, or participate in, that sport at a college or university in the United States under the rules of the National Collegiate Athletic Association; and
 - (cc) a significant number of the individuals who play in such league or

association are drafted by a major sports league or a minor league affiliate of such a sports league; or

- (IV) is a professional athlete or amateur athlete who performs individually or as part of a group in a theatrical ice skating production . . .[.]

Section 214(c)(4)(A)(ii)(I) of the Act provides that the alien must seek to enter the United States temporarily and solely for the purpose of performing as such an athlete with respect to a specific athletic competition. The regulation at 8 C.F.R. § 214.2(p)(1)(ii)(A)(I) provides that a P-1 classification applies to an alien who is coming temporarily to the United States 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.

The regulation at 8 C.F.R. § 214.2(p)(3) defines “competition” as follows:

Competition, event or performance means an activity such as an athletic competition, athletic season, tournament, tour exhibit, project, entertainment event or engagement An athletic competition or entertainment event could include an entire season of performances.

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

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.

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

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.

The regulation at 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.

II. Factual and Procedural History

The petitioner filed the Form I-129, Petition for a Nonimmigrant Worker (Form I-129), on September 18, 2014. In its initial letter of support dated September 16, 2014, the petitioner stated that it seeks to employ the beneficiary in the position of athlete for its table tennis club in [REDACTED] Washington. The petitioner provided documentation that the beneficiary competed in youth table tennis competitions in China in [REDACTED] and other competitions in Portugal in [REDACTED] and the United States in [REDACTED] and [REDACTED]. In [REDACTED] the beneficiary obtained the title of [REDACTED] from the [REDACTED] China. The record reflects that at the time of filing, the beneficiary was ranked [REDACTED] among all women's table tennis players in the United States by [REDACTED], the national governing body for the sport in the United States. In describing its need for the beneficiary's services the petitioner stated as follows:

[The beneficiary] is being offered the Athlete position [with the petitioner]. In this position, her primary duties are to represent [the petitioner] to compete in various table tennis events and competitions in the United States as well as to promote [the petitioner's] image and goodwill in those events. During the days off from matches, she will train with other team members to prepare for competitions, showcases, and promotion programs

[The Beneficiary] plans to compete in several 4 Star and 5 Star tournaments starting from November, 2014.

The petitioner's initial letter also discussed the star ratings as follows:

Star ratings are assigned to tournaments as an indication of the expected strength of the draw. Major Tournaments are those tournaments rated Three Star or higher and Five Star is the highest rating. As a leading national player, [the beneficiary] only participates [in] 4 Star or above competitions in the [United States].

The petitioner's initial evidence also included the petitioner's employment agreement with the beneficiary dated August 25, 2014, which the parties signed on September 6, 2014. The employment agreement describes the beneficiary's duties as follows:

3. [The petitioner] agrees to employ [the beneficiary] as a professional table tennis athlete. In such capacity, [the beneficiary] is required, in h[er] best effort and capacity, to represent the employer to compete in various table tennis events and competitions in the United States as well as to promote the employer's image and goodwill in these events.

Part of the job may include training together with other members for preparation of the events, competitions, showcases, and/or programs; participate [in] table

over 160 players from the United States and abroad. We are working to turn this into a biannual event in order to encourage and attract more skillful players' participations.

[The petitioner] will participate in the upcoming [redacted] held at [redacted] MD This event attracts more than 140 teams worldwide and China has been dominant in this tournament for many years. In order to increase our competitive advantages, the participation of international players such as [the beneficiary] is necessary.

The petitioner did not submit any supporting evidence from the competitions or the [redacted] explaining the entry requirements or the star rating system. The director denied the petition, finding that, while the petitioner claims that the events in which the beneficiary will compete are four and five star events, "the petitioner has not provided any information concerning these events or the requirements to enter these events."

On appeal, the petitioner contests the director's finding, stating as follows:

The denial is based on [a] subjective judgment on the levels of competitions that the beneficiary is required to participate in the [United States]. Take [the] U.S. Open; for example, it is a five-star event recognized [by] the [redacted] [redacted] It attracts internationally recognized players [from] around the world to participate To say that [the] U.S. Open does not require the participation of [internationally] recognized athletes is to deny the eligibility of the whole sport in the immigration context.

Upon review, the evidence of record supports the director's determination. The petitioner has not submitted evidence to corroborate its assertions that the listed competitions are competitions that require the participation of internationally-recognized athletes. While the submitted itinerary lists the U.S. National Championships and the U.S. OPEN, which have names suggesting that they are national tournaments that may reasonably require the participation of internationally-recognized athletes, the petitioner has not provided evidence of the entry requirements for the events or comparable evidence that would establish whether the events require the participation of athletes with an international reputation. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)). Accordingly, we do not reach a subjective determination about these competitions as the petitioner suggests; rather we find that the petitioner has not met its burden of proof by submitting evidence to corroborate the assertions about these events. In addition, the remaining competitions, including the one at the petitioner's facility, are table tennis tournaments of unknown significance in the sport.

III. Conclusion

The petitioner has not corroborated the assertions that the specific events in which the beneficiary will compete are competitions which require participation of an athlete who has an international reputation, pursuant to 8 C.F.R. § 214.2(p)(4)(ii)(A). Accordingly, the appeal will be dismissed.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.