



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF C-B-&F-, INC.

DATE: SEPT. 28, 2015

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a boxing and fitness facility, seeks to classify the Beneficiary as a foreign national of extraordinary ability in athletics. *See* Immigration and Nationality Act (the Act) § 101(a)(15)(O)(i), 8 U.S.C. § 1101(a)(15)(O)(i). The Director, Vermont Service Center, denied the petition. The matter is now before us on appeal. The appeal will be dismissed.

The Petitioner seeks to employ the Beneficiary as a professional boxer for a period of three years. After issuing a request for evidence (RFE) and then considering the record, the Director denied the petition, concluding that the Petitioner did not establish that the Beneficiary has achieved the required national or international acclaim in his field. Specifically, the Director determined that the Petitioner had not satisfied the initial evidentiary requirements set forth at 8 C.F.R. § 214.2(o)(3)(iii), which require documentation of a one-time achievement or materials that meet at least three of the eight regulatory criteria.

On appeal, the Petitioner asserts generally that the Director's discussion was "ambiguous, contradictory and in some parts, filled with nonsense affirmations." As an example, the Petitioner references the Director's conclusion that the Petitioner did not document the Beneficiary's one-time achievement. The Petitioner does not specifically address the Director's remaining conclusions. The petitioner indicates on the Form I-290B, Notice of Appeal or Motion, that a brief and/or additional evidence would be submitted to us within 30 days. The petitioner filed the appeal on February 13, 2015. As of this date, approximately seven months have passed and we have not received a subsequent submission. We will adjudicate the appeal based on the record. For the reasons discussed below, the Petitioner has not satisfied the plain language requirements of at least three criteria.

#### I. PERTINENT LAW AND REGULATIONS

Section 101(a)(15)(O)(i) of the Act provides classification to a qualified beneficiary who has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim, whose achievements have been recognized in the field through extensive documentation, and who seeks to enter the United States to continue work in the area of extraordinary ability. The regulation at 8 C.F.R. § 214.2(o)(3)(ii) provides, in pertinent part: "*Extraordinary ability in the field of science, education, business, or athletics* means a level of expertise

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indicating that the person is one of the small percentage who have arisen to the very top of the field of endeavor.”

The regulation at 8 C.F.R. § 214.2(o)(3)(iii) sets forth a multi-part analysis. First, a petitioner can demonstrate a beneficiary’s sustained acclaim and the recognition of the beneficiary’s achievements in the field through a major internationally recognized award. 8 C.F.R. § 214.2(o)(3)(iii)(A). If a petitioner does not submit this documentation, then it must satisfy at least three of the eight categories listed at 8 C.F.R. § 214.2(o)(3)(iii)(B)(1)-(8). If certain criteria in paragraph (o)(3)(iii)(B) of this section do not readily apply to a beneficiary’s occupation, the petitioner may submit comparable evidence in order to show the beneficiary’s eligibility. 8 C.F.R. § 214.2(o)(3)(iii)(C).

The submission of documents relating to at least three criteria does not, in and of itself, establish eligibility for O-1 classification. *See* 59 Fed. Reg. 41818, 41820 (Aug. 15, 1994). In addition, we have held that, “truth is to be determined not by the quantity of evidence alone but by its quality.” *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010). That decision explains that, pursuant to the preponderance of the evidence standard, we “must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true.” *Id.*

## II. FACTUAL AND PROCEDURAL HISTORY

The record of proceeding includes the Form I-129, Petition for a Nonimmigrant Worker, and supporting documentation, the Director’s RFE dated September 30, 2014, the Petitioner’s response, the Director’s decision dated January 14, 2015, and the Petitioner’s appeal. We have reviewed the record in its entirety in reaching our decision. The Petitioner filed the Form I-129 on September 8, 2014, seeking to classify the Beneficiary as a foreign national of extraordinary ability as a Professional Boxer. The record indicates that the Beneficiary is a 23-year-old featherweight boxer who has participated in boxing competitions between 2003 and 2014 in countries including his native Romania, Ukraine, Moldova, Germany, Singapore, Azerbaijan, and the United States. On June 22, 2013, the Beneficiary turned professional, winning his first four professional boxing matches in the United States in 2013 and 2014. The Petitioner seeks to classify the Beneficiary as a foreign national with extraordinary ability as a professional boxer so that it may employ him at its boxing and fitness facility.

In the initial letter dated September 5, 2014, the Petitioner stated that the Beneficiary will be “showcasing his unique and extraordinary athletic boxing talents in the [United States].” The Petitioner described the Beneficiary as “a popular, leading and distinguished Professional Boxer with national and international acclaim.” The Petitioner provided a letter from [REDACTED] dated August 14, 2014, confirming that the Petitioner is offering the Beneficiary employment “as an assistant boxing coach, youth program instructor and ‘Professional Boxer.’” [REDACTED] explained that “[the Beneficiary] is currently promoted by several companies . . . where he is scheduled to compete at least five times in the coming twelve months. . . . In addition to this, once [the Beneficiary] obtains lawful permanent residence he will also be working full time at our [REDACTED] Maryland facility conducting his coaching duties.” The Petitioner submitted [REDACTED]

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Management Agreement with the Beneficiary dated February 11, 2014, and signed by the parties, stating that he will be managing the Beneficiary's professional boxing career in the United States. The record also contains a copy of the Beneficiary's Virginia boxer license.

In response to the Director's RFE, the Petitioner provided its Professional Athletic Services Agreement with the Beneficiary, which the parties dated and signed in December 2014. According to the agreement, the Beneficiary's duties in the United States will include "athletic presentations at [the Petitioning facility] or in the showcasing, and . . . athletic presentations at the boxing events organized by different promoters." In a December 23, 2014, letter, the Petitioner emphasized that "[t]he Beneficiary will work solely as a 'Professional Boxer' in his relationship with us." Finally, the Petitioner submitted letters from three boxing matchmakers/promoters, listing 13 dates of boxing events in which the Beneficiary is expected to participate between January and December 2015.

The Director denied the petition on January 14, 2015, concluding that the Petitioner did not establish the Beneficiary's receipt of a major internationally recognized award pursuant to 8 C.F.R. § 214.2(o)(3)(iii)(A), or show that the Beneficiary has satisfied at least three of the eight evidentiary criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B). The Director further found that the record was unclear as to the Beneficiary's field of endeavor, which is relevant to the requirement that the Beneficiary come to the United States to continue work in the area of extraordinary ability. Section 101(a)(15)(O)(i) of the Act. The Director found that the proposed position appears to be as a boxing instructor, while the Beneficiary's field of endeavor appears to be competitive boxing.<sup>1</sup> The Director evaluated the Beneficiary's eligibility under the regulatory criteria at 8 C.F.R. § 214.2(o)(1)(iii)(B), both as a competitive boxer and as a boxing coach/instructor and concluded that the Beneficiary met none of the eight criteria at 8 C.F.R. § 214.2(o)(1)(iii)(B).

Upon review, the record establishes that the Beneficiary's proposed position is as a competitive boxer and the area of the Beneficiary's claimed extraordinary ability is competitive boxing and not boxing coaching/instruction. On the Form I-129, the Petitioner indicated that it was seeking to classify the Beneficiary as a foreign national of extraordinary ability as a Professional Boxer. While the Petitioner's initial letter listed assistant boxing coach and youth program instructor as duties in addition to competing as a professional boxer, it clarified that the Beneficiary was promoted by several companies and scheduled to compete at least five times in the coming twelve months. The Petitioner further explained in response to the Director's RFE that the Beneficiary's duties in the United States will include boxing presentations. Accordingly, we will analyze the Beneficiary's field of endeavor as competitive boxing. For the reasons discussed below, the Petitioner has not established that the Beneficiary is one of the small percentage who has risen to the very top of his field of endeavor.

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<sup>1</sup> Competitive athletics and coaching/instructing are not the same area of expertise. This interpretation has been upheld in Federal Court. *See, Lee v. I.N.S.*, 237 F. Supp. 2d 914 (N.D. Ill. 2002).

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### III. ANALYSIS

#### A. Consideration of the Evidentiary Criteria<sup>2</sup>

If the Petitioner provides documentation that the Beneficiary has received a major, internationally recognized award pursuant to 8 C.F.R. § 214.2(o)(3)(iii)(A), then it will have provided the requisite initial evidence pertaining to the Beneficiary's acclaim and recognition. The regulations cite to the Nobel Prize as an example of a major award. *Id.* The selection of Nobel Laureates is reported in the top media internationally regardless of the nationality of the awardees, is a familiar name to the public at large, and includes a large cash prize. While an internationally recognized award could constitute a one-time achievement without meeting all of those elements, it is clear from the example in the regulation that the award must be internationally recognized in the Beneficiary's field as one of the top awards in that field.

At the time of filing, the Petitioner indicated that the beneficiary meets at least three of the eight criteria provided at 8 C.F.R. § 214.2(o)(3)(iii)(B), but did not suggest that the Beneficiary qualifies for O-1 classification on the basis of his receipt of a major, internationally recognized award pursuant to 8 C.F.R. § 214.2(o)(3)(iii)(A). The Director determined that the record did not establish that the Beneficiary satisfies this basis of eligibility. On appeal, the Petitioner maintains that the Director was in error, but does not specify what award rises to the level of a major internationally-recognized award in the sport, such as an Olympic medal. Rather, the Petitioner states generally that the Beneficiary "was/is ranked in the top of the world and was #1 in Romanian boxing. He was also in [the] top of [the] world Championship and also in [the] Olympics." As discussed below, the record does not support these assertions. Most notably, the record lacks evidence the Beneficiary ever competed in the Olympics. Rather, he competed in the Youth Olympics in [REDACTED] in 2010.

As evidence of the Beneficiary's achievements as an athlete, the Petitioner documented that the Beneficiary received the following awards:

- 2007 – 1st Place [REDACTED] [REDACTED] edition, [REDACTED] Romania;
- 2008 – 1st Place [REDACTED] Romania;
- 2010 – 1st Place [REDACTED] Romania [REDACTED] Romania;
- 2010 – 1st Place [REDACTED] Romania [REDACTED] Romania;
- 2010 – Bronze Medal, [REDACTED] [REDACTED] Azerbaijan.;

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<sup>2</sup> The Petitioner does not claim to satisfy or submit evidence relating to the regulatory categories not discussed in this decision.

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- 2010 – Diploma of Excellence – for obtaining the [REDACTED] Romania, bearing the seal of the Government of Romania, [REDACTED]
- 2010 – Diploma of Excellence, for the Promotion of [REDACTED] from the [REDACTED] – Boxing Section, [REDACTED] Romania; and
- 2011 – Diploma of Excellence, for the Promotion of [REDACTED] through Athletic Performances, [REDACTED] Romania.

The record contains material downloaded from [REDACTED] about the 2010 [REDACTED] event in [REDACTED], indicating that a total of 466 boxers from 96 different countries registered to compete in the competition, held under the supervision of the [REDACTED], the world governing body for amateur [REDACTED]. With regard to information from [REDACTED] there are no assurances about the reliability of the content from this open, user-edited internet site. *See Lamilem Badasa v. Michael Mukasey*, 540 F.3d 909 (8th Cir. 2008). Regardless, the materials reflect that the event is the junior version of the [REDACTED].

As additional evidence in support of this criterion, the Petitioner submitted numerous foreign-language articles about the Beneficiary published on the websites [REDACTED] [REDACTED] [REDACTED] [REDACTED] and [REDACTED]. While the petitioner provided English versions of these articles from foreign media, the English is generated by online translation tools. The regulation at 8 C.F.R. § 103.2(b)(3) states: “Any document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator’s certification that he or she is competent to translate from the foreign language into English.” Therefore, these English versions have limited probative value.

Regardless, several of the articles indicated that the Beneficiary finished in [REDACTED] place at the Youth Olympic Games in [REDACTED] such as “Portrait: [of the Beneficiary], [REDACTED] Boxing Hope Lives in the Gym,” published on the website [REDACTED], “[The Beneficiary] V Place of Youth Olympic Games,” published on the website [REDACTED], “[The Beneficiary] Seniors Take the First Steps in the Ring,” published on the website [REDACTED] and “[The Beneficiary] Finished [REDACTED] in Olympics,” published on the website [REDACTED]. The Petitioner also provided a copy of the Beneficiary’s photo ID badge for the 2010 [REDACTED] Youth Olympic Games, which reflected that he competed as an athlete on behalf of Romania.

Two of the articles, [REDACTED] published at [REDACTED] and [REDACTED] Only Qualified for the World Championship Boxing,” published at [REDACTED] also refer to additional awards won by the Beneficiary as follows:

- 2004/2005 - Two bronze medals in [REDACTED] competition at the [REDACTED],
- 2006, 2007, and 2008 - Five silver medals in [REDACTED] competition at the [REDACTED]

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- 2009 - Two silver medals at the [REDACTED] and the [REDACTED]

Upon review, the Petitioner has not established that the Beneficiary has received a major, internationally-recognized award in the sport of boxing. None of the awards received by the Beneficiary are demonstrated to rise to the level of a major internationally-recognized award in the sport, such as an Olympic medal. The Petitioner has shown that the Beneficiary received a bronze medal in the bantamweight event in the 2010 [REDACTED] Boxing Championship and finished in 5th place in the [REDACTED] in [REDACTED] in [REDACTED]. The remaining awards are in national or regional youth/junior competition.

The burden is on the Petitioner to demonstrate the level of recognition associated with the Beneficiary's awards in international junior competition. The submitted news articles do not reflect that the level of recognition of the Beneficiary's competition victories is commensurate with a major, internationally recognized award for excellence in the field of competitive boxing, such as an Olympic medal. The competitions in which the Beneficiary received awards were for youth or junior level competition and by definition not open to all boxing athletes, but to a restricted segment of athletes. The Petitioner has not shown that these awards were open to experienced athletes already working in the field. While age restricted awards may be major, internationally recognized awards, it is the Petitioner's burden to substantiate this level of recognition. Moreover, the Petitioner did not provide any information pertaining to the audience or level of readership for the above websites, as might be indicative of major trade or general media coverage of the awards, or equivalent documentation of their recognition in the field. 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)). Overall, the record is insufficient to establish that the Beneficiary's victories resulted in his receipt of a major internationally recognized prize or award for excellence as a boxing athlete such as an Olympic medal. As such, the record does not satisfy the plain language of this provision.

As the record does not demonstrate that the Beneficiary has received a major, internationally recognized award, the Petitioner must show the Beneficiary's eligibility under at least three of the eight criteria set forth at 8 C.F.R. § 214.2(o)(3)(iii)(B). After careful review of the record and for the reasons discussed herein, the Petitioner has not established eligibility under three of the eight evidentiary criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B).

*Documentation of the alien's receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor*

The Petitioner asserts that the Beneficiary's receipt of the above-referenced awards satisfies this criterion. The prizes the beneficiary has received reflect that he has received awards from several national and international boxing competitions, all at the youth or junior level of competition. The Director determined that the Petitioner did not satisfy this criterion. Upon review, the Petitioner has not documented that these awards are qualifying athletic awards.

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A competition may be open to athletes from throughout a particular country or countries, but this factor alone is not adequate to establish that an award or prize is “nationally or internationally recognized.” In addition, the competitions in which the Beneficiary received awards were in youth or junior level competition, by definition, not open to all boxing athletes, but to a restricted segment of athletes. As discussed above, *Wikipedia* is not a reliable source and the published material includes English versions generated through an online translation tool. The Petitioner also did not demonstrate the reach of the media covering his competitions. With respect to the Beneficiary’s rankings, the Petitioner initially provided a list of the “Top 10 boxers of Romania in 2010,” listing the Beneficiary as [REDACTED]. The list also includes six professional boxers separately ranked. This document, however, is an English version generated through an online translation tool. Notably, the tool translated each placement as a month rather than a ranking. In response to the RFE, the Petitioner submitted an August 18, 2014, boxing record from [REDACTED]. The Petitioner did not submit any information about this website. The record contains the Beneficiary’s “rating” as [REDACTED] and [REDACTED]. The record contains no information that explains the significance of a “rating.” For example, the record does not resolve whether a rating is comparable to a ranking and, if so, whether the first rating is international and the second rating is national. While a high national ranking is a relevant factor when considering the national recognition of the awards on which the ranking is based, the record does not contain sufficiently probative evidence of the Beneficiary’s national ranking in Romania. Upon review, the Petitioner has not satisfied the criterion at 8 C.F.R. § 214.2(o)(3)(iii)(B)(1).

*Published material in professional or major trade publications or major media about the alien, relating to the alien’s work in the field for which classification is sought, which shall include the title, date, and author of such published material, and any necessary translation*

In general, in order for published material to meet the criterion at 8 C.F.R. § 214.2(o)(3)(iii)(B)(3), it must be “about” the Beneficiary and, as stated in the regulations, be printed in professional or major trade publications or major media. To qualify as major media, the publication should have significant national or international distribution. The Director determined that the evidence did not establish that the Beneficiary satisfies this criterion.

The Petitioner’s initial evidence contained numerous English versions of articles written about the Beneficiary, profiling or highlighting the Beneficiary’s amateur competitive boxing career, published on the websites [REDACTED]. As previously discussed, without translations accompanied by the translator’s certification, these translations have limited probative value. *See* 8 C.F.R. § 103.2(b)(3). In addition, the Petitioner provided articles about the Beneficiary’s professional career in the United States in 2013 and 2014, published on the websites [REDACTED].

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While these articles are about the Beneficiary, relating to his work as a competitive boxer, the Petitioner must also show that they appeared in professional or major trade publications or other major media. The Petitioner did not submit evidence pertaining to the audience and readership level of those online publications, to establish that the articles appear in qualifying media. At least some of them appear focused on [REDACTED]. Accordingly, the Petitioner has not demonstrated that these articles meet all of the requirements of the regulation.

In the initial letter, the Petitioner also stated that the Beneficiary “was the subject of at least four news shows for [REDACTED] at [REDACTED] in Romania in 2010, 2013 and 2014.” (Emphasis in original.) However, the record does not contain any evidence corroborating this assertion as required. *Matter of Soffici*, 22 I&N Dec. at 165 (citing *Matter of Treasure Craft of California*, 14 I&N Dec. at 190). Based on the forgoing, the Petitioner has not satisfied the evidentiary criterion at 8 C.F.R. § 214.2(o)(3)(iii)(B)(3).

*Evidence of the alien’s original scientific, scholarly, or business-related contributions of major significance in the field*

To meet the evidentiary criterion at 8 C.F.R. § 214.2(o)(3)(iii)(B)(5), the Petitioner has submitted a number of testimonial letters. The Director determined that the Petitioner did not establish that the Beneficiary satisfies this criterion. The Petitioner submitted three foreign-language letters. The letters were accompanied by uncertified translations, therefore, the translations do not meet the requirements of the regulation at 8 C.F.R. § 103.2(b)(3) and have little limited probative value. Regardless, the letters do not identify specific contributions and explain how the Beneficiary has impacted the field. See *Visinscaia v. Beers*, 4 F. Supp. 3d 126, 134-35 (D.D.C. 2013) (upholding a finding that a ballroom dancer had not met this criterion because she did not demonstrate her impact in the field as a whole). [REDACTED] the Beneficiary’s boxing coach with the boxing club and team, [REDACTED] – [REDACTED] Romania, stated that he has known the Beneficiary since age eight. He included some of the Beneficiary’s awards in boxing competitions and described the Beneficiary as a “natural fighter, with supple boxing moves, quick thinking ability” and an “accomplished athlete.” [REDACTED] affirmed that the Beneficiary “is capable of becoming a World Champion.” [REDACTED] a boxer who fought alongside the Beneficiary in Romania as a teammate and competitor in the same weight class, praised the Beneficiary’s “ability to overcome difficult situations with superior speed and skill.” The third letter is from [REDACTED] a professional boxer, who trained with the Beneficiary in 2010. [REDACTED] mentioned some of the Beneficiary’s competition results, and described him as “a young man with excellent pugilistic qualities.”

The Petitioner also submitted letters from five boxers who train at its facility and know the Beneficiary: [REDACTED] All five boxers praised the Beneficiary’s work ethic and training methods, and affirmed that the Beneficiary has won his first five professional fights in the United States.

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The record also contains a letter from [REDACTED] President of [REDACTED] [REDACTED] stated that one of his job responsibilities is “as a talent scout for upcoming fighters around the world,” and he confirmed that he has followed the Beneficiary’s career for a number of years. [REDACTED] indicated that the Beneficiary “possesses the requisite skills and performance history to be a major success as a professional boxer,” and has “the very real potential to reach world champion status.”

Finally, the Petitioner provided a letter dated August 5, 2014, from [REDACTED] Vice President of Boxing Operations and [REDACTED] who identified himself as “a talent (boxing) scout.” [REDACTED] stated that as a scout he has followed the Beneficiary’s career for a number of years, and affirmed that the Beneficiary “possesses all of the requisite skills and performance history to be a major success as a professional boxer,” and has the “potential to reach world champion status.”

The Petitioner additionally asserted that the Beneficiary satisfies this criterion based upon the above-referenced awards he received as an amateur boxer. The Petitioner also provided a copy of the Beneficiary’s ID badge as a player for the [REDACTED] Boxing Championships in [REDACTED] Poland, but the record does not contain evidence of the Beneficiary’s results in this competition. The record also contains a screenshot from [REDACTED] the website of the [REDACTED], indicating that the Beneficiary was selected as among the top [REDACTED] boxers of Romania in 2010. Finally, the Petitioner submitted articles pertaining to the Beneficiary’s victories in his first four professional featherweight fights in the United States in 2013 and 2014, and a screenshot from [REDACTED] dated [REDACTED], 2014, indicating the Beneficiary’s rating in the featherweight division. As discussed above, the record does not demonstrate the reliability of this website or explain the significance of the ratings, including whether they are comparable to rankings and the pool in which the Beneficiary’s rating was calculated.

Upon review, the record supports the Director’s determination that the submitted evidence does not satisfy the criterion at 8 C.F.R. § 214.2(o)(3)(iii)(B)(5). The submitted letters praise the Beneficiary’s accomplishments, abilities and skills as a competitive boxer but none of these letters indicated that the Beneficiary has made original contributions of major significance to his field.

In general, attestations regarding the Beneficiary’s talent, skills and success will not satisfy 8 C.F.R. § 214.2(o)(3)(iii)(B)(5), as evidence of the Beneficiary’s original contributions. Competitive success is already taken into account by 8 C.F.R. § 214.2(o)(3)(iii)(B)(1), pertaining to prizes and awards, and 8 C.F.R. § 214.2(o)(3)(iii)(B)(3) provides for the submission of media coverage of an athlete or coach. Accordingly, such materials are only relevant insofar as they address whether the Beneficiary’s competitive success and media coverage are indicative of original contributions that are of major significance in the field. The Petitioner has not demonstrated that the Beneficiary’s awards recognize achievements that are either original or of major significance in the field such that they have impacted the field. Similarly, the media coverage discussed the Beneficiary’s competitive accomplishments and personal history without suggesting that he has had an impact on the field.

Overall, while the submitted letters are highly complimentary and suggested that the Beneficiary is a skilled boxer, the Petitioner has not established that the Beneficiary has made original contributions of major significance to the sport. Based on the foregoing, the Petitioner has not submitted evidence that satisfies the criterion at 8 C.F.R. § 214.2(o)(3)(iii)(B)(5).

*Evidence that the alien has been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation*

The scope of this evidentiary criterion focuses on the Beneficiary and the relative importance of his position within the organizations that have employed him. A leading role should be evident by its position in the overall organizational hierarchy and should be accompanied by the role's matching duties. A critical role should be apparent from the Beneficiary's impact on the organization or the establishment's activities. The Beneficiary's performance in this role should reflect whether the role was critical for the entity as a whole.

The Director determined that the Petitioner did not establish that the Beneficiary satisfies this criterion because the record does not contain evidence of the Beneficiary's past employment with any organization. The Petitioner does not challenge that conclusion on appeal. Accordingly, the Petitioner has abandoned that claim. *See Sepulveda v. U.S. Atty Gen.*, 401 F.3d 1226, 1228 n. 2 (11th Cir.2005); *Hristov v. Roark*, No. 09-CV-2731, 2011 WL 4711885 at \*9 (E.D. N.Y. Sept. 30, 2011).

*Comparable evidence pursuant to 8 C.F.R § 214.2(o)(3)(iii)(C).*

Initially, the Petitioner maintained that the Beneficiary's awards reflect the display of his work in showcases. While the similarly worded immigrant classification for foreign nationals of extraordinary ability, section 203(b)(1)(A) of the Act, includes a regulatory criterion for the display of an individual's work at artistic exhibitions or showcases, 8 C.F.R § 204.5(h)(3)(vii), that provision does not appear in the nonimmigrant regulations for athletes. The Petitioner no longer raises this assertion on appeal and we are not persuaded that we need to consider whether the Beneficiary has displayed his work at showcases. The regulation at 8 C.F.R § 214.2(o)(3)(iii)(C) allows for the submission of comparable evidence if the criteria at 8 C.F.R § 214.2(o)(3)(iii)(B) do not readily apply to the Beneficiary's occupation. The Petitioner has not addressed which criterion at 8 C.F.R § 214.2(o)(3)(iii)(B) do not readily apply to professional boxing. Moreover, the record does not explain why the Petitioner's competitive awards, which we considered under the awards criterion, warrant additional consideration as comparable evidence of eligibility as the display of the Beneficiary's work.

## B. Summary

In sum, the Petitioner has not presented the type of sustained national or international recognition of accomplishments necessary for O-1 classification through a one-time achievement,

the satisfaction of at least three of the regulatory criteria, or the submission of comparable evidence.

#### IV. CONCLUSION

The Petitioner did not provide a major, internationally recognized award and the documentation submitted does not satisfy three of the eight other evidentiary criteria specified in the regulation at 8 C.F.R. § 214.2(o)(3)(iii)(B) or constitute comparable evidence pursuant to 8 C.F.R. § 214.2(o)(3)(iii)(C). The record shows that the Beneficiary is a skilled boxer. Upon review of the totality of the record, the Petitioner has not established that the Beneficiary has extraordinary ability as a boxer, which has been demonstrated by sustained national or international acclaim and that his achievements have been recognized in the field through extensive documentation, as required by section 101(a)(15)(O) of the Act. Consequently, the Beneficiary is not eligible for nonimmigrant classification under section 101(a)(15)(O) of the Act.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. 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, that burden has not been met. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.

Cite as *Matter of C-B-&F-, INC.*, ID# 13701 (AAO Sept. 28, 2015)