



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 10016469

Date: MAR. 11, 2021

Appeal of California Service Center Decision

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

The Petitioner, a boxing promotional and management company, seeks to classify the Beneficiary, a boxer, 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 California Service Center denied the petition, concluding that the record did not establish that the Beneficiary was coming to the United States solely to participate in distinguished competitions that require an athlete with an international reputation. The Petitioner appeals, submitting new evidence and maintaining that it has shown its eligibility.

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).¹ 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 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 the foreign national must be entering the United States temporarily and solely for the purpose of performing "as such an athlete with respect to a specific athletic competition."

In addition, the regulation at 8 C.F.R. § 214.2(p)(4)(i)(A) states:

¹ 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.

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.

Moreover, the regulation at 8 C.F.R. § 214.2(p)(1)(ii)(A)(1) provides that a P-1 classification applies to a foreign national who is coming temporarily to the United States "[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 regulation at 8 C.F.R. § 214.2(p)(3) provides the following relevant definition:

Competition, event, or performance means an activity such as an athletic competition, athletic season, tournament, tour, exhibit, project, entertainment event, or engagement. Such activity could include short vacations, promotional appearances for the petitioner employer relating to the competition, event, or performance, and stopovers which are incidental and/or related to the activity. An athletic competition or entertainment event could include an entire season of performances.

Furthermore, the regulation at 8 C.F.R. § 214.2(p)(4)(ii) sets forth the documentary requirements for P-1 athletes, stating:

(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. ANALYSIS

According to the submitted petition, the Petitioner seeks to employ the Beneficiary, an internationally ranked boxer from [redacted]. However, the Petitioner has not shown that the Beneficiary intends to enter the United States solely to perform in athletic competitions that have a distinguished reputation and that require participation of an athlete who has an international reputation. See Section 214(c)(4)(A)(ii)(I) of the Act; 8 C.F.R. § 214.2(p)(4)(i)(A), (ii)(A). In its initial filing, the Petitioner submitted a sample boxing schedule of "hypothetical matches" that had not been set but also included a title fight actually scheduled to take place in [redacted] TX, in [redacted] 2019. The Director found that the Petitioner's sample schedule did not demonstrate the Beneficiary will actually participate in athletic competitions that have a distinguished reputation. The Director noted that "a tentative, hypothetical schedule of future boxing matches and the concession on the schedule stating that the events are 'not real' indicates that these are not definite events but rather, represent the types of competitions in which the beneficiary intends or hopes to participate.

The Petitioner argues boxing matches are "almost never scheduled years in advance" and the provided sample schedule of hypothetical fights is normal in boxing. In support, the Petitioner submits a letter

from [redacted] a Texas boxing promoter, stating that a boxer cannot provide a schedule for “his next several years of boxing matches” because “[t]hese things are not done four or five years in advance because they cannot be done far in advance” (emphasis in original). [redacted] further states that “I never have been able to reliably provide a boxer’s itinerary beyond about six months into the future.” The record does not support the Petitioner’s contention that the submitted hypothetical schedule is normal in boxing. The letter from [redacted] claims that boxing schedules cannot be set for years in advance or, in [redacted] personal experience, after six months. The Petitioner’s sample schedule only includes an actual boxing match set to occur weeks after the filing of the petition with the next three hypothetical matches set to occur within about six months after the time of filing. These factors indicate the Petitioner did not submit a normal sample schedule of the Beneficiary’s competitions.

While the record includes mention of the Beneficiary being scheduled to participate in a title fight in [redacted] 2019, it does not contain any documentation on the proposed fight or any of the other hypothetical events listed in the Beneficiary’s sample boxing schedule. The Petitioner did not explain why it was not able to provide documentation of these proposed events. Due to the lack of documentation for these hypothetical fights, the Petitioner has not demonstrated that the proposed competitions have a distinguished reputation and require participation of athletes who have international reputations. See Section 214(c)(4)(A)(ii)(I) of the Act; 8 C.F.R. § 214.2(p)(4)(i)(A), (ii)(A).

Additionally, the Petitioner provided statements from [redacted], representative of the [redacted] [redacted] submitted after the time of filing the petition asserting the Beneficiary would be fighting in title matches in [redacted] 2019 and [redacted] 2020. While adding additional events after the time of filing may be permissible in certain situations, the Beneficiary must still show that at the time of filing they intended to compete in events with distinguished reputations that require the participation of athletes with international reputations. 8 C.F.R. § 103.2(b)(12). A petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1). As discussed above, the Petitioner has not made such a showing.

On appeal, the Petitioner references a letter from [redacted] commissioner of the [redacted] State Athletic Commission, claiming that an international boxer such as the Beneficiary would only be allowed to participate in boxing matches against “other internationally ranked boxers with similar ranking and skills.” However, none of the hypothetical boxing matches provided in the Beneficiary’s sample schedule were set to take place in [redacted]. Additionally, the Petitioner did not provide evidence from commissioners in relevant locations indicating the hypothetical matches would only be against other internationally ranked boxers with similar ranking and skills. It is the Petitioner’s burden to show, by a preponderance of the evidence, that the proposed competitions have a distinguished reputation and require participation of athletes who have international reputations. See Section 214(c)(4)(A)(ii)(I) of the Act; 8 C.F.R. § 214.2(p)(4)(i)(A), (ii)(A). Here, that burden has not been met.

III. CONCLUSION

The Petitioner has not demonstrated its eligibility to classify the Beneficiary as an internationally recognized athlete. Specifically, it has not established that he is 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.

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, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act; Skirball Cultural Ctr., 25 I&N Dec. at 806. Here, that burden has not been met.

ORDER: The appeal is dismissed.