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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090



U.S. Citizenship and Immigration Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: NOV 16 2010

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

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 in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion. The fee for a Form I-290B is currently \$585, but will increase to \$630 on November 23, 2010. Any appeal or motion filed on or after November 23, 2010 must be filed with the \$630 fee. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen

Thank you,

Perry Rhew
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 AAO 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 mixed martial arts school, seeks to employ the beneficiary as a Jiu Jitsu Specialist/Instructor for an indefinite period.

The director denied the petition based on three separate grounds, concluding that the petitioner: (1) failed to provide a tendered contract with a major United States sports league or team, or a tendered contract in an individual sport commensurate with international recognition in the sport, pursuant to 8 C.F.R. § 214.2(p)(4)(ii)(B)(1); (2) failed to submit evidence to satisfy at least two of the seven evidentiary criteria for internationally-recognized athletes pursuant to 8 C.F.R. § 214.2(p)(4)(ii)(B)(2); and (3) failed to establish that the beneficiary has a foreign residence which he has no intention of abandoning and seeks to enter the United States temporarily.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On appeal, counsel for the petitioner asserts that the petitioner submitted substantial documentary evidence to establish the beneficiary's eligibility and contends that the supporting documentation was entirely ignored by the director. Counsel submits a lengthy brief in support of the appeal.

I. The Law

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, 8 U.S.C. § 1184(c)(4)(A)(ii)(I), 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)(1) 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)(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.
- (B) *Evidentiary requirements for an internationally recognized athlete or athletic team.* A petition for an athletic team must be accompanied by evidence that the team as a unit has achieved international recognition in the sport. Each member of the team is accorded P-1 classification based on the international reputation of the team. A petition for an athlete who will compete individually or as a member of a U.S. team must be accompanied by evidence that the athlete has achieved international recognition in the sport based on his or her reputation. A petition for a P-1 athlete or athletic team shall include:

- (1) A tendered contract with a major United States sports league or team, or a tendered contract in an individual sport commensurate with international recognition in that sport, if such contracts are normally executed in the sport, and
- (2) Documentation of at least two of the following:
 - (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.

Finally, the regulation at 8 C.F.R. § 214.2(p)(2)(ii) states that all petitions for P classification shall be accompanied by:

- (A) The evidence specified in the specific section of this part for the classification;
- (B) Copies of any written contracts between the petitioner and the alien beneficiary, or, if there is no written contract, a summary of the terms of the oral agreement under which the alien(s) will be employed;
- (C) An explanation of the nature of the events or activities, the beginning and ending dates for the events or activities, and a copy of any itinerary for the events or activities; and
- (D) A written consultation from a labor organization

II. The Issues on Appeal

A. Tendered Contract

The first issue addressed by the director is whether the petitioner submitted a tendered contract with a major United States sports league or team, or a tendered contract in an individual sport commensurate with international recognition in that sport, if such contracts are normally executed in the sport, pursuant to 8 C.F.R. § 214.2(p)(4)(ii)(B)(I).

The petitioner, a mixed martial arts school with four employees, indicated on the Form I-129, Petition for a Nonimmigrant Worker, that it seeks to employ the beneficiary [REDACTED] on a full-time basis. The petitioner did not submit a written contract with the beneficiary or a summary of the terms of the oral agreement under which the beneficiary would be employed.

In a request for evidence dated August 10, 2009, the director instructed the petitioner to provide evidence of a tendered contract with a major United States sports league or team, or a tendered contract in an individual sport commensurate with international recognition in that sport, if such contracts are normally executed in the sport. The director also separately requested a copy of any written contracts between the petitioner and the beneficiary or, if there is no written contract, a summary of the terms of the oral agreement under which the alien will be employed.

In a letter dated September 3, 2009, the petitioner stated that it does not have a written contractual agreement with the beneficiary and that such contracts are not customary practice for the petitioner. The petitioner emphasized that it is greatly in need of the beneficiary's services, which would include instructing the petitioner's students in Jiu Jitsu, self-defense and martial arts, training [REDACTED] for upcoming UFC events, and training for his own personal competitions, including [REDACTED] events.

The director denied the petition on September 19, 2009, concluding that the petitioner had failed to submit evidence to meet the requirement at 8 C.F.R. § 214.2(p)(4)(ii)(B)(I). In denying the petition, the director acknowledged the petitioner's explanation that "it is not a customary practice for our company to enter into any written contractual agreement" between employer and employee. However, the director observed that "no evidence was provided to show that written contracts are not customary in the sport of mixed martial arts." The director emphasized that "UFC is an internationally recognized 'league' in the sport of mixed martial arts." The director further observed that, based on a search of public records "it appears that written contracts are customary for athletes to participate in that league."

On appeal, counsel for the petitioner asserts that the director's reference to "public records" is "lacking in transparency and accountability." Counsel asserts that the California Civil Code at section 1622 provides that all contracts may be oral. Counsel contends that the petitioner's response to the RFE included a detailed explanation as to "the existence of an oral employment agreement, as well as the terms of such contract and other details of the events and location of services pertinent to the beneficiary's role as a professional [REDACTED] instructor." Counsel recites the contents of the petitioner's letter and asserts that it "provided a detailed breakdown of the terms of [the beneficiary's] employment, in addition to the activities that the beneficiary will be participating in."

Upon review, counsel's assertions are persuasive. The record does not indicate that the beneficiary will be competing on a major U.S. sports team or for a major U.S. sports league and thus is not required to submit a contract from such a team or league. Furthermore, the petitioner has not indicated that the beneficiary will be

██████████. Rather, the petitioner indicates that the beneficiary will be providing coaching and instruction in Brazilian ██████████ to students at the petitioner's mixed martial arts school, competing in ADCC mixed martial arts events, and training for national and international ██████████ and grappling tournaments through 2012.

Accordingly, the AAO will withdraw the director's decision with respect to this issue.

B. Internationally-Recognized Level of Performance

The second issue in this matter is whether the petitioner has established that the beneficiary is an alien who performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance, pursuant to section 214(c)(4)(A)(i)(II) of the Act. To demonstrate that the beneficiary is an internationally recognized athlete, the petitioner must satisfy at least two of the evidentiary criteria set forth at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2). The petitioner has claimed that it can meet the criteria at 8 C.F.R. §§ 214.2(p)(4)(ii)(B)(2)(iv), (v), (vi) and (vii). As such, the remaining criteria will not be addressed in this decision. The director determined that the petitioner's evidence met none of these criteria.

To meet the criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(iv), the petitioner must submit a written statement from an official of the governing body of the sport which details how the alien or team is internationally recognized. The criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(v) requires that the petitioner submit 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.

The petitioner submitted a letter from ██████████ ("USAJJ") National Training Academy, and claimed that this evidence could be considered a written statement from an official of the governing body of the sport or from a recognized expert in the sport.

██████████ advises that USA Jiu-Jitsu was established to govern the sport in the United States, creates rules for tournaments, and sets standards for promotions within the sport. ██████████ observes that the beneficiary has a "phenomenal record as the champion of several leading international Jiu Jitsu tournaments," and mentions the beneficiary's victories in events such as the championships of the Paulista Federation of ██████████ Championships and the Pan American No-Gi Championship.

The director determined that the letter from ██████████ is not from an official of a major U.S. sports league or from an official of the governing body of the sport. The director further stated that "it is uncertain whether or not the USAJJ has been accepted by the major U.S. or international Jiu-Jitsu or Mixed Martial Arts leagues as an official governing body of the sport." The director noted that based on the petitioner's claim that there are "no international standard rankings in ██████████" it appears that "there is not an internationally recognized governing body." The director did not consider whether the letter from ██████████ could alternatively meet the criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(v) and instead indicated that "no evidence" was submitted to meet this criterion.

On appeal, counsel emphasizes that the [REDACTED] is a U.S. organization responsible for organizing the sport to be included in the 2016 Olympics and explains that [REDACTED] is both an official of the governing body of the sport and a recognized expert in Brazilian Jiu-Jitsu.

Upon review, counsel's assertions are persuasive in part. The AAO is satisfied that [REDACTED] could be considered both a recognized expert in the sport and an official of the U.S. governing body for the sport. The AAO emphasizes, however, that the petitioner cannot rely on a single letter to satisfy more than one evidentiary criterion.

Furthermore, the AAO must still take into account the contents of [REDACTED]'s letter. The regulation at 8 C.F.R. § 214.2(p)(2)(iii)(B) provides that affidavits written by recognized experts "shall specifically describe the alien's recognition and ability or achievement in factual terms, and also set forth the expertise of the affiant and the manner in which the affiant acquired such information. Furthermore, the plain language of this evidentiary criterion requires that the evidence "detail how the alien . . . is internationally recognized."

[REDACTED] states that the beneficiary was educated in the sport "under the world-famous and brilliant Jiu-Jitsu athlete [REDACTED]" and that his "triumphs at numerous championships truly reflect upon [the beneficiary's extraordinary abilities as a Jiu-Jitsu expert." [REDACTED] further indicates that the beneficiary's successes in major tournaments in Brazil are "incomparable markers of [the beneficiary's] exceptional abilities." [REDACTED] states that he regards the beneficiary as an extraordinary talent, but he does not describe how the beneficiary's achievements are renowned, leading, or well-known in more than one country or conclude that the beneficiary is an internationally-recognized athlete based on his own reputation. Therefore, the AAO concludes that the petitioner has not submitted evidence to meet the criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(iv) or (v).

To meet the criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(vi), the petitioner must submit evidence that the individual or team is ranked, if the sport has international rankings. The petitioner indicated that "there are no standard rankings in Jiu-Jitsu." The petitioner provided an explanation regarding belt rankings in the sport, noting that belt ranks start at white belt and progress through blue, purple, brown and then black. The petitioner explained that it generally takes two to three years of training to be promoted to a higher belt rank, and that rank is awarded based on the student's ability to reliably defeat most other students at a given rank. The petitioner noted that the beneficiary was promoted to the highest rank of black belt after placing first among brown belt competitors at the 2008 World Jiu Jitsu Championship.

The director determined that the beneficiary did not meet this criterion, based on the petitioner's statement that the sport does not have international rankings. On appeal, counsel once again emphasizes that, while there are no international rankings of athletes in the sport, the beneficiary, as a black belt, holds the highest belt rank in the sport.

Upon review, the AAO concurs with the director that this criterion has not been met. A black belt in the martial arts is not an international ranking in the sport within the meaning of this regulatory criterion.

The criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(vii) requires the petitioner to submit evidence that the alien or team has received a significant honor or award in the sport. The director determined that "no evidence" was submitted to meet this criterion. The petitioner has in fact submitted substantial evidence related to the beneficiary's tournament results as a Brazilian Jiu-Jitsu athlete dating back to 2005.

The beneficiary has competed in national and international Brazilian Jiu Jitsu competitions such as the 2005 through 2008 Championship Paulista, the 2007 and 2008 World Jiu-Jitsu Championships, and the 2008 Pan America Jiu-Jitsu No-Gi Championship. These competitions feature participants at all belt levels and result in a champion at each belt level, gender, weight and age category. The beneficiary has achieved first, second or third place finishes in all of these events in his age and weight category; however, the AAO notes that he did so in the purple and brown belt grades, and not at the highest level of competition as a black belt. The petitioner has not submitted evidence that winning a national or international competition at a lower belt grade conveys the same type of national or international recognition to the medal winner. There is no evidence, for example, that any of the beneficiary's results as a purple or brown belt were reported by the sports media in Brazil or otherwise recognized beyond the context of the competition. The significance of the beneficiary's victories at the purple and brown belt levels has not been established and cannot be considered indicative of the beneficiary's international recognition, nor has the petitioner established that achievement of a black belt in and of itself garnered the beneficiary international recognition.

The beneficiary also won first place in the 2009 North American Grappling Association's Vegas Grappling Championship. While NAGA appears to be a national or international organization, the petitioner did not provide evidence that the "Vegas Grappling Championship" is a national or international event in the sport, or present evidence of any national or international recognition the beneficiary garnered as a result of his victory. 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. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

Accordingly, the AAO cannot conclude that the beneficiary has received a significant honor or award in the sport. The petitioner has not submitted evidence to meet at least two of the regulatory criteria at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2), and therefore has not established that the beneficiary is an internationally recognized athlete.

C. *Temporary Employment*

The third and final issue addressed by the director is whether the petitioner established that the beneficiary has a foreign residence which he has no intention of abandoning and seeks to enter the United States temporarily, pursuant to section 101(a)(15)(P) of the Act.

The director noted that "the very fact that the petitioner states in Part 5, #8 of the I-129 petition that the dates of intended employment are to be 'indefinite' appears to indicate that the alien beneficiary may not have a foreign residence which he has no intention of abandoning." The director further found that "the fact the beneficiary's intended stay in the United States is 'indefinite' shows that the alien's presence is not temporary."

As noted by the director, the petitioner indicated the beneficiary's requested period of employment as "indefinite" on the Form I-129. In a letter dated June 2, 2009, counsel for the petitioner stated that "the beneficiary intends to temporarily work in his field of endeavor in the United States," and stated that he "will surely facilitate the success of [the petitioner] until [the beneficiary's] return to his home country of Brazil." In its letter dated June 1, 2009, the petitioner stated that it "will cover [the beneficiary's] cost of transportation back to Brazil in the event that our relationship with him is terminated prior to the expiration of his status."

In response to the director's request for an itinerary of events in which the beneficiary will compete, the petitioner indicated that the beneficiary will participate in various grappling and Jiu-Jitsu tournaments, events and championships through 2012.

On appeal, counsel asserts that the director's conclusion the beneficiary's employment will not be temporary is "completely baseless, arbitrary and capricious," and contends that the director should have requested clarification of what was meant by "indefinite" rather than simply determining that the beneficiary intends to abandon his foreign residence. Counsel notes that the petitioner specifically stated that the beneficiary intends to "temporarily work" in the United States and will "return to his home country of Brazil."

Upon review, the AAO will withdraw the director's determination with respect to this issue. Although the petitioner indicated on Form I-129 that the requested period of employment is "indefinite," the record also contains statements from the petitioner indicating that the beneficiary will be employed temporarily and that he will return to Brazil upon expiration of his status or termination of his employment with the petitioner. The petitioner also clarified in response to the RFE that the beneficiary will be instructing its students and preparing for events and competitions through 2012, a period of three years from the date of filing.

D. Purpose for coming to the United States

Beyond the decision of the director, the remaining issue in this matter is whether the petitioner established that the beneficiary is coming to the United States solely for the purpose of competing in an athletic competition or competitions which require participation of an athlete that has an international reputation. See section 214(c)(4)(A)(ii)(I) of the Act ; 8 C.F.R. 214.2(p)(1)(ii)(A)(1).

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 petitioner, a school of mixed martial arts, stated on Form I-129 that it seeks to employ the beneficiary as a "Jiu-Jitsu Specialist/Instructor" to "teach the art of Brazilian jiu-jitsu to martial arts students." The petitioner further stated that "the duties include instructing the students on the techniques of the specified martial art form of Brazilian jiu-jitsu."

In response to the RFE, in a letter dated September 3, 2009, the petitioner indicated:

[W]e intend to have [the beneficiary] instruct our students at our academy in the art of Jiu-Jitsu, and teach self-defense and competitive martial arts. . . .

[The beneficiary] will instruct and train with [redacted] our instructors and our students at our academy. He will instruct our students at our academy in the art of Jiu-Jitsu. Upon issuance of his P-1 status, [the beneficiary] will work around [redacted] schedule and to train for his personal performances and competitions which require rigorous training. . . . [redacted] has an up-coming fight October 24, 2009 at the UFC 104 Event. [The beneficiary] will provide one of the many tools Joe needs to succeed. We are currently in need of [the beneficiary's] expertise in Jiu-Jitsu to help [redacted] improve and re-train to the highest level of Jiu-Jitsu and Grappling that the UFC demands.

Section 214(c)(4)(A) specifically states that section 101(a)(15)(P)(i)(a) refers to an alien who "performs as an athlete" and "seeks to enter the United States. . . for the purpose of performing as . . . an athlete with respect to a specific athletic competition." Where the language of a statute is clear on its face, there is no need to inquire into Congressional intent. *INS v. Phinpathya*, 464 U.S. 183 (1984).

While the Act provides for P-1 classification for certain coaches, the beneficiary does not meet the criteria set forth at section 214(c)(4)(A)(i)(III) of the Act, which limits P-1 classifications to coaches of teams or franchises that are located in the United States and members of a foreign league or association of 15 or more amateur sports teams. Regardless, the petitioner clearly seeks to classify the beneficiary as an athlete who performs at an internationally recognized level of performance, pursuant to section 214(c)(4)(A)(i)(I) of the Act.

The AAO acknowledges that the beneficiary intends to compete in grappling and Jiu-Jitsu competitions in the United States. However, the petitioner has also unequivocally indicated that the beneficiary will be serving as a coach and instructor for its organization and in fact initially listed such role as his primary responsibility. Therefore, it must be concluded that the beneficiary would not be coming to the United States *solely* to participate in athletic events that require an internationally recognized athlete. Rather, the evidence indicates that the beneficiary will be a Jiu-Jitsu instructor in addition to any athletic competitions in which he may compete. There is no provision that would allow an alien to come to the United States individually as a P-1 coach or instructor other than the above-referenced statutory provision allowing P-1 classification of coaches who participate in certain qualifying amateur sports leagues or associations, or as a P-1 essential support alien accompanying a P-1 athlete or athletes. *See* 8 C.F.R. § 214.2(p)(4)(iv). The statute and regulations do not provide for P-1 classification of an individual who will serve as both a competitive athlete and coach/instructor. For this additional reason, the petition cannot be approved.

An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004) (noting that the AAO reviews appeals on a *de novo* basis).

III. Conclusion

In summary, as discussed above, the evidence submitted by the petitioner fails to meet at least two of the criteria listed in the regulation at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2). Therefore, the petitioner failed to establish that the beneficiary has achieved international recognition as a martial arts athlete. In addition, the petitioner has failed to establish that the beneficiary would be coming to the United States solely for the purpose of competing in athletic competitions. *See* section 214(c)(4)(A)(ii)(I) of the Act ; 8 C.F.R. 214.2(p)(1)(ii)(A)(1).

The petition will be denied and the appeal dismissed for the above stated reasons, with each considered as an independent and alternative basis for the decision. When the AAO denies a petition on multiple alternative grounds, a plaintiff can succeed on a challenge only if it is shown that the AAO abused its discretion with respect to all of the AAO's enumerated grounds. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d at 1043.

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. Here, that burden has not been met.

ORDER: The appeal is dismissed.