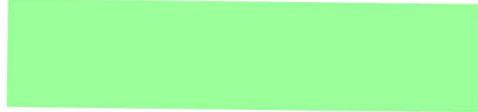


(b)(6)

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

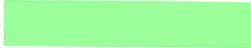


U.S. Citizenship
and Immigration
Services

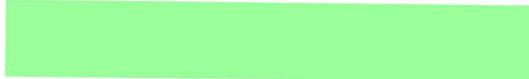


DATE: OCT 21 2013

Office: CALIFORNIA SERVICE CENTER

FILE: 

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:



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 "R. Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will summarily 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 self-described agent, seeks to employ the beneficiary temporarily in the United States as a P-1 athlete to serve as a U.S. Equestrian Eventing Competitor.

The director denied the petition, concluding that the petitioner failed to establish: (1) that the beneficiary is currently an internationally-recognized athlete; and (2) that the beneficiary is coming to the United States to participate in an athletic competition which has a distinguished reputation and which requires participation of an athlete that has an international reputation

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.¹

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)(I) of the Act, 8 U.S.C. § 1184(c)(4)(A)(i)(I), provides that section 101(a)(15)(P)(i)(a) of the Act applies to an alien who performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance. 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 evidentiary requirements for internationally-recognized athletes under section 101(a)(15)(P)(i) of the Act are set forth at 8 C.F.R. § 214.2(p)(4)(ii)(B). The regulation at 8 C.F.R. § 214.2(p)(4)(ii)(A) provides that the athlete 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.

As noted above, the director cited multiple grounds for denial of the petition, finding that the evidence submitted does not establish that the beneficiary is currently competing at a level commensurate with an internationally-recognized athlete, that she will be competing for the petitioner in competitions with a distinguished reputation which require the services of an internationally-recognized athlete, or that she will be performing solely as an athlete with respect to such competitions. The director noted that based on the petitioner's description of the beneficiary's proposed duties, her services for the petitioner would include duties as "a coach, instructor, teacher, assistant and/or trainer" and not solely to compete as an internationally recognized athlete at specific athletic events.

¹ In a letter accompanying the appeal, counsel requests oral argument. The regulations provide that the affected party must explain in writing why oral argument is necessary. 8 C.F.R. § 103.3(b)(1). USCIS has the sole authority to grant or deny a request for oral argument and will grant argument only in cases involving unique factors or issues of law that cannot be adequately addressed in writing. *See* 8 C.F.R. § 103.3(b)(2). In this instance, counsel identified no unique factors or issues of law to be resolved. In fact, counsel set forth no specific reasons why oral argument should be held. Moreover, the written record of proceedings fully represents the facts and issues in this matter. Consequently, the request for oral argument is denied.

On the Form I-290B Notice of Appeal or Motion, counsel states as follows:

The petitioner by way of her legal representative is informed to believe that the denial of the above referenced petition on April 11, 2013 has erroneous conclusions of law and fact based on the evidence that was submitted as to the original petition and the additional evidence submitted in response to the request for evidence. The four issues raised by the California Service Center will be responded to. Specifically, the respondent will demonstrate to the AAO that by way of the evidence submitted and the law/regulations as to P-1A athletes, the beneficiary: (1) has the required international recognition; (2) will be participating in athletic competition; (3) will participate in events that require international reputation; and (4) will be participating in events that have a distinguished reputation. The service centers have approved prior P-1 athletic/equestrian petitions for athletes in similar situations as to the beneficiary at issue. The petitioner is informed to believe that the California Service Center is reviewing the petition at issue on a basis that would be suitable for an O-1 alien of extraordinary ability petition and not a P-1A athlete petition.

On the Form I-290B, counsel indicated that he would submit a brief or evidence within 30 days of filing the appeal on May 8, 2013. More than five months have passed and the AAO has not received a brief or additional evidence in this matter. Accordingly, the record will be considered complete.

Regulations at 8 C.F.R. § 103.3(a)(1)(v) state, in pertinent part:

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition. Counsel's general objection that the director's decision "has erroneous conclusions of law and fact," without specifically identifying any errors on the part of the director, is simply insufficient to overcome the conclusions the director reached based on the evidence submitted by the petitioner. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaighbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

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). Inasmuch as the petitioner has not identified specifically an erroneous conclusion of law or statement of fact in support of the appeal, the petitioner has not sustained that burden and the appeal must be summarily dismissed.

ORDER: The appeal is summarily dismissed.