

(b)(6)



U.S. Citizenship
and Immigration
Services

[REDACTED]

DATE: **JUL 14 2014** Office: CALIFORNIA SERVICE CENTER FILE: [REDACTED]

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:

[REDACTED]

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 "Ron 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 appeal will be summarily dismissed.

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 (“Act”), 8 U.S.C. § 1101(a)(15)(P)(i). The petitioner is an agency providing representation to professional athletes. The petitioner requests that the beneficiary be granted P-1 status so that he may accept employment as a polo pony trainer/coach with the [REDACTED]-based [REDACTED] Team. At the time of filing, the beneficiary was in the United States pursuant to an approved P-1S petition for Essential Support Personnel. Accordingly, the petitioner requested that U.S. Citizenship and Immigration Services grant him a change of status and extend his stay for a period of five years.

The director denied the petition, concluding that the petitioner failed to establish that the beneficiary falls under any of the classes of athletes, performers and coaches admissible under section 101(a)(15)(P)(i) of the Act. The petitioner claimed the beneficiary is eligible for P-1 classification as a coach under Public Law 109-463, 120 Stat. 3477 (2006), "Creating Opportunities for Minor League Professionals, Entertainers, and Teams through Legal Entry Act of 2006" (“COMPETE Act of 2006”), codified at section 214(c)(4)(A)(i)(III) of the Act, 8 U.S.C. § 1184(c)(4)(A)(i). The director denied the petition, concluding that the petitioner did not establish that the beneficiary 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, as required under section 214(c)(4)(A)(i)(III) of the Act. The petitioner subsequently filed an appeal. The petitioner has not submitted a brief or any further evidence in support of the appeal.

The COMPETE Act of 2006, signed into law on December 22, 2006, amended Section 214(c)(4)(A) of the Act, and authorizes certain athletes to be admitted temporarily into the United States to compete or perform in an athletic league, competition, or performance. It expanded the P-1 nonimmigrant visa classification to include certain athletes formerly admitted to the United States as H-2B nonimmigrants.

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, 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 . . .[.]

As noted, section 214(c)(4)(A)(i)(III) requires the beneficiary to perform 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.” Although the petitioner submitted an employment letter from [REDACTED], owner of [REDACTED], the director found that the petitioner did not establish that [REDACTED] is a member of a foreign league or association of 15 or more amateur sports teams, as required by the plain language of Section 214(c)(4)(A)(i)(III) of the COMPETE Act of 2006. There are no other provisions within Section 214(c)(4)(A) that allow for a coach to be eligible for P-1 classification. Consequently, the director denied the petition.

Part 3 of the Form I-290B Notice of Appeal or Motion, includes the following:

[The petitioner’s] Form I-129 petition for [the beneficiary] was denied because [the director] did not believe the petition for [the beneficiary] met the requirements under the Compete Act of 2006. [The petitioner] now comes before the AAO and asserts [the director’s] decision was in error . . .

On the Form I-290B, the petitioner indicated that it would submit a brief or evidence within 30 days of filing the appeal on January 27, 2014. More than five months have passed and we have not received a brief or additional evidence in this matter. Accordingly, we will adjudicate the appeal based on the assertions on the Form I-290B.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, 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.

The petitioner's general objection that the director's decision "was in error," without specifically identifying any errors on the part of the director, is insufficient to overcome the conclusions the director reached based on the evidence the petitioner submitted.

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.