



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: NOV 12 2014 Office: VERMONT 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 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,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Acting Director, Vermont Service Center, denied the petition for a nonimmigrant visa and the matter is now before the Administrative Appeals Office (AAO) on appeal. We will summarily dismiss the appeal.

The petitioner filed a Form I-129, Petition for a Nonimmigrant Worker, seeking classification of the beneficiary under section 101(a)(15)(P)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(P)(i), as an internationally-recognized athlete. The petitioner, a business that operates thoroughbred racehorse training stables, currently employs the beneficiary and seeks to extend his P-1 status for five years.

The director denied the petition on January 28, 2014, finding 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 us for review. The petitioner indicated on the Form I-290B, Notice of Appeal or Motion, that it would submit a brief and/or evidence to us within 30 days. However, as of this date, no supplemental brief or additional evidence has been received.

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 he will be competing for the petitioner in competitions with a distinguished reputation which require the services of an internationally-recognized athlete, or that he 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, his services for the petitioner would include duties as "riding horses for exercise and training purposes" and not solely to compete as an internationally recognized athlete at specific athletic events.

On the Form I-290B, Notice of Appeal or Motion, the petitioner submits a statement from counsel as follows:

USCIS failed to consider and address specific evidence provided on the record regarding the Beneficiary's qualifications and nature of Beneficiary's duties which fulfilled the regulatory requirements for the approval of the P-1 petition.

A brief and or additional evidence will be submitted to the AAO within 30 days if [sic] the filing of this 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.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition. The petitioner has not identified specific evidence which the director did not consider, or an erroneous conclusion of law or statement of fact on the part of the director as a basis for the appeal. The petitioner does not attempt to overcome the director's specific grounds for denial, as set forth in the director's decision. Inasmuch as the petitioner has not identified specifically an erroneous conclusion of law or statement of fact in support of the appeal, the appeal must be summarily dismissed.

In visa petition proceedings, the burden of proving eligibility for the benefit sought is 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, the petitioner has not satisfied that burden.

ORDER: The appeal is summarily dismissed.