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

(b)(6)

DATE: AUG 24 2015

PETITION RECEIPT #:

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:

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO**.

Thank you,

Ron Rosenberg
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. We 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 sports and training club, seeks to temporarily employ the Beneficiary as a competitive table tennis athlete for a period of three years.

The Director denied the petition, concluding that the Petitioner did not establish that the Beneficiary is an internationally recognized athlete as defined at 8 C.F.R. § 214.2(p)(3). More specifically, the Director determined that the evidence provided did not 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*).

On appeal, the Petitioner asserts that it has established the Beneficiary's eligibility as an internationally recognized athlete. The Petitioner submits a brief and new evidence in support of the appeal.

For the reasons discussed below, we agree that the Petitioner has not established the Beneficiary's eligibility as an internationally-recognized athlete. Accordingly, we will uphold the Director's decision and dismiss the appeal.

I. PERTINENT LAW AND REGULATIONS

Under section 101(a)(15)(P)(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 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 a foreign national who:

> (I) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance;
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> (II) is a professional athlete, as defined in section 204(i)(2);
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> (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 foreign national 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)(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 petitions for P nonimmigrant aliens shall be accompanied by the following evidence:

(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 end 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. FACTUAL AND PROCEDURAL HISTORY

The sole issue addressed by the Director is whether the Petitioner has established that the Beneficiary qualifies as an internationally recognized athlete pursuant to section 101(a)(15)(P)(i)(a)(I) of the Act. The Director determined that the Petitioner's evidence satisfied none of the seven criteria at 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*), of which two must be satisfied in order to establish the Beneficiary's eligibility as an internationally recognized athlete.

The Petitioner filed the Form I-129, Petition for a Nonimmigrant Worker (Form I-129), on August 5, 2014. In its initial letter of support dated August 4, 2014, the Petitioner described the Beneficiary as an internationally recognized table tennis player. The Petitioner stated that it seeks to employ the Beneficiary in the position of athlete for its table tennis club in Washington. The Petitioner explained that it is offering the Beneficiary an athlete position, with his primary duties being to prepare for and represent the Petitioner at various table tennis events and competitions. The Petitioner indicated that the Beneficiary planned to compete in five four-star tournaments in the next half of 2014. The Petitioner discussed the star ratings, explaining that major tournaments are those rated three-star or higher with five-star being the highest rating. The petitioner asserted that the Beneficiary has competed in two four-star events and one five-star event in the United States. The Petitioner also stated that it was enclosing a certificate evidencing that the Beneficiary was awarded "the title of Second-Class Referee in ' however the record of proceeding does not contain this evidence.

The initial evidence included the Petitioner's promotional contract with the Beneficiary dated March 1, 2014, which the parties signed on July 31, 2014. The employment agreement describes the Beneficiary's duties as representing the Petitioner at events and competitions, promoting the Petitioner's image, and training with others for these events. The Petitioner also submitted an itinerary of tournaments in which the Beneficiary is expected to compete for the period from September 6, 2014 to December 28, 2014.

The Director issued a request for additional evidence (RFE) on August 9, 2014 to which the Petitioner responded on October 24, 2014, with the submission of, among other documents, an updated itinerary of tournaments in which the Beneficiary is expected to compete for the period from October 2014 to December 2015; information about downloaded from the organization's website at ; and additional documentation evidencing the Beneficiary's receipt of table tennis awards in 2008.

On appeal, the Petitioner asserts that the submitted evidence establishes that the Beneficiary qualifies for classification as an internationally recognized athlete and submits documentation that the Beneficiary won an additional award in in a youth team table tennis competition in China. Upon review, the evidence of record supports the Director's determination that the Petitioner has not established that the Beneficiary qualifies as an internationally recognized athlete.

III. ANALYSIS

The sole issue addressed by the Director is whether the Petitioner established that the Beneficiary is an internationally recognized athlete as defined in the Act and regulations. The Petitioner can establish that the Beneficiary is internationally recognized by submitting evidence satisfying two out of the seven of the documentary requirements listed at 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*). The Petitioner's evidence must support a finding that the Beneficiary's individual achievement in the sport is renowned, leading or well-known in more than one country, pursuant to the definition of "internationally recognized" at 8 C.F.R. § 214.2(p)(3).

The Petitioner has not specifically addressed the evidentiary criteria applicable to internationally recognized athletes. The Director determined that the Petitioner has not submitted evidence relating to the criteria at 8 C.F.R. §§ 214.2(p)(4)(ii)(B)(*2*)(*i*), (*iii*), (*iv*), (*v*) or (*vi*). On appeal, the Petitioner does not contest this conclusion. The issue of whether the evidence relates to those criteria, therefore, is considered to be abandoned. *Sepulveda v. U.S. Att'y Gen.*, 401 F.3d 1226, 1228 n. 2 (11th Cir. 2005); *Hristov v. Roark*, No. 09-CV-27312011, 2011 WL 4711885 at *1, *9 (E.D.N.Y. Sept. 30, 2011) (plaintiff's claims found to be abandoned as he failed to raise them on appeal to the AAO). Moreover, the record supports that determination. We will address the two remaining criteria under 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(*ii*) and (*vii*).

To satisfy the first criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(*ii*), the Petitioner must submit evidence that the Beneficiary participated in international competition with a national team. At the time of filing, the Petitioner stated that the Beneficiary "represented China in the tournament." The Petitioner submitted the following award certificates issued to the Beneficiary:

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The Petitioner provided articles from two unidentified Japanese newspapers. The first article, titled states that the Chinese team participating in the event from is comprised of 10 middle-school or elementary-school students. The article also explains that competitors in the

two-day tournament will include 71 teams from 12 states around the country, all students in the 8th grade or younger. The second article is titled The article describes the competitors as being "[a]bout 600 8th grade and younger players from 12 states around the country and " The above articles do not provide information sufficient to establish that the team in which the Beneficiary competed in the Table Tennis Open was a national level team.

The Petitioner's initial evidence also included a consultation letter from , Chief Operating Officer and High Performance Director for explaining that the Beneficiary "represented China in international tournament and won team champion." Mr. does not state that the team in which the Beneficiary competed was a national level team or otherwise indicate the existence of a youth or adult national Chinese table tennis team.

In the RFE, the Director advised the Petitioner that the submitted evidence did not establish the existence of a national Chinese table tennis team. In response to the RFE, the Petitioner provided a verification letter from a representative of dated September 9, 2014, that the school "represented the China Table Tennis Youth Team at the International Tournament." The Petitioner asserted that the verification letter "attests [to the Beneficiary's] award records at the and representation as China Table Tennis Youth Team in this international competition." The Director concluded that the Petitioner did not submit evidence that "the team the Beneficiary played for was an officially sanctioned national team." Noting that "[n]o other evidence pertaining to the 'China Table Tennis Youth Team' has been provided" the Director determined that "[i]t cannot be automatically concluded that, simply because the youth team that the Beneficiary was a member of came from China that it is a 'national team' as contemplated by the regulations" which would require evidence that the team "is a team that has been sanctioned and endorsed by an official national governing body or other official national government institution to represent the country." The Director therefore concluded that the Petitioner did not submit evidence to satisfy the plain language of this criterion.

On appeal, the Petitioner submits an additional award certificate won by the Beneficiary in team competition, a Certificate of Place in under-18 team competition in the an The Petitioner asserts that the Beneficiary's awards "indicate that the Beneficiary is an internationally recognized athlete." Upon review, the 2010 certificate does not establish that the team on which the Beneficiary played was a national-level team. In addition, on appeal the Petitioner has not provided any additional evidence pertaining to the China Table Tennis Youth Team, as requested by the Director. As the record does not contain sufficient independent, objective evidence of the Beneficiary's membership on a national table tennis team in China, we agree with the Director's conclusion that the Beneficiary's team participation in international competition does not satisfy the plain language of the regulatory criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(*ii*).

To satisfy the second and final criterion, the Petitioner must submit evidence that the Beneficiary "has received a significant honor or award in the sport." 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(*vii*). The Petitioner asserts that the Beneficiary's above awards "indicate that the Beneficiary is an internationally recognized athlete."

As part of its initial evidence the Petitioner submitted a copy of a First-Class Athlete Certification issued to the Beneficiary by the indicating that "[the Beneficiary] has passed the examination as per the 'Athlete Skill Level Management Act' and 'Athlete Technical Grade Standards.' [The Beneficiary] is hereby titled First-Class Athlete." The certificate indicates that the Beneficiary was granted the title "First Class Athlete" for Table Tennis in based on finishing in 3rd Place in the men's team event in the China. The above-referenced consultation letter from Mr. describes the competition in which the Beneficiary received the title as an "inter-collegial" tournament.

The Petitioner's initial evidence also included documentation pertaining to four events in which the Beneficiary competed in the United States in and a screenshot from the website evidencing the Beneficiary's rating of 2,262 as of July 30, 2014. The record does not establish how this rating compares with other table tennis athletes or how the beneficiary ranks with that rating. The record contains evidence that the top three rating level tournaments at the a four-star event, were under 2,500, under 2,375 and under 2,250. The Petitioner asserted in its initial letter that the Beneficiary was a quarterfinalist in the , a 4-star event, "advanced to under 2400 Semi-final and Under 2300 final rounds at a 4-star event," and was "a semi-quarter finalist for Under 2400 Singles" in the a 5-star tournament. The Petitioner also emphasized that the Beneficiary "was the champion for [the Petitioner's] "

The Director determined that the evidence submitted was insufficient to establish that any of the Beneficiary's awards are internationally recognized in the sport as significant, to the extent that the recipient could derive an international reputation from having received them. The Director emphasized that while the Beneficiary competed internationally in tournaments for middle-school or elementary-school students, "a competition and team of this level does not support a finding that the Beneficiary is an internationally recognized athlete." Regarding the Beneficiary's competition results in the United States other than at the Petitioner's club, the Director stated that "placing outside of the standings is generally not sufficient to qualify as a significant honor or award in the sport."

Upon review, we concur with the Director's finding that this criterion has not been met. The Petitioner submitted evidence to establish that the Beneficiary achieved a first place finish in individual table tennis competition and a second place in team competition at the The evidence of record indicates that over 600 competitors from at least two countries competed in those table tennis events and that the two-day tournament received some publicity. The Petitioner has also

established that the Beneficiary achieved a third place finish in team competition at the

The Petitioner has not established, however, that the Beneficiary's first-place and second-place awards in 8th-grade-or-younger competition, or the Beneficiary's third-place award for ages 18 or under are significant honors or awards in the sport. While there is some evidence of contemporaneous publicity surrounding the the publicity does not specifically mention the Beneficiary's individual or team awards. In addition, the Petitioner did not submit evidence of the circulation of the newspaper that covered the event.

We must presume that the word "significant" is not superfluous and, thus, that it has some meaning. *Silverman v. Eastrich Multiple Investor Fund, L.P.*, 51 F. 3d 28, 31 (3rd Cir. 1995) *quoted in APWU v. Potter*, 343 F.3d 619, 626 (2nd Cir. Sep 15, 2003). All of the Beneficiary's awards were won in youth-level national and international competitions in China and Japan. While some youth awards may be qualifying, it is the Petitioner's burden to demonstrate that the Beneficiary's youth awards meet this criterion. Coverage in a publication of unknown circulation does not establish that the Beneficiary's achievements rise to the level of significant honors or awards.

With respect to the bronze medal that the Beneficiary received as an adult competitor at the event in which the Beneficiary achieved the title "First Class Athlete," the Petitioner explains that this was a collegiate competition. While collegiate competition could be qualifying, the Petitioner must document that the Beneficiary's specific honor or award was significant. The Petitioner did not submit any information about this competition. Moreover, while the Petitioner asserts that the Beneficiary's First-Class Athlete Title derived from the tournament, the certificate does not support this statement. Rather, it provides that the Beneficiary earned the title after having "passed the examination."

The Petitioner also emphasized that the Beneficiary "was the champion" for the Petitioner's The Petitioner has not submitted any evidence establishing that this competition is one where the champion receives a significant honor or award. For example, the record contains no evidence that the general or trade media covers the event.

Based on the foregoing, the Petitioner has not satisfied at least two of the seven criteria for internationally-recognized athletes as set forth at 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*).

IV. CONCLUSION

The Petitioner has not established that the Beneficiary is an internationally-recognized athlete as defined at 8 C.F.R. § 214.2(p)(3). The submitted evidence does not 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*). Consequently, the Petitioner has not established that the Beneficiary is eligible for classification as an internationally recognized athlete and the appeal will be dismissed.

In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.