



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF R-E-

DATE: NOV. 2, 2015

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a self-described agent, seeks to classify the Beneficiary as an internationally-recognized athlete. *See* Immigration and Nationality Act (the Act) § 101(a)(15)(P)(i), 8 U.S.C. § 1101(a)(15)(P)(i). The Director, Vermont Service Center, denied the petition. The matter is now before us on appeal. The appeal will be dismissed.

The Petitioner currently represents the Beneficiary and seeks to extend his P-1 status for two years. The Director denied the petition on April 23, 2014, finding 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). Specifically, the Director determined that the Petitioner satisfied none of the seven criteria at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2), of which two must be met in order to show the Beneficiary's eligibility as an internationally recognized athlete. The Petitioner subsequently filed an appeal. 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 exhibits have been received. We will adjudicate the appeal based on the May 20, 2014, statement and the evidence of record.

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)(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 a foreign national who performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance. According to section 214(c)(4)(A)(ii)(I) of the Act, 8 U.S.C. § 1184(c)(4)(A)(ii)(I), 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)(3), 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.

(b)(6)

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The regulation at 8 C.F.R. § 214.2(p)(4)(ii) sets forth the documentary requirements for P-1 athletes, and requires that the Petitioner submit documentation to satisfy at least two of the seven evidentiary criteria at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2) if it seeks to classify the Beneficiary as an internationally-recognized athlete.

The Director determined that the Petitioner did not support the criteria at 8 C.F.R. §§ 214.2(p)(4)(ii)(B)(2)(i) - (iv). The record contains no evidence of the Beneficiary's performance with a major league or national team or in intercollegiate competition, pursuant to 8 C.F.R. §§ 214.2(p)(4)(ii)(B)(2)(i), (ii), and (iii). The record also does not contain a statement from a governing body in the sport pursuant to 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(iv). On appeal, the Petitioner does not contest this conclusion. The issue of whether the Petitioner addressed those criteria, therefore, is 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).

To meet the criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(v), the Petitioner must submit a written statement from a member of the sports media or a recognized expert in the sport which details how the Beneficiary is internationally recognized. The Petitioner filed the petition with a letter from [REDACTED] Secretary-Treasurer of the [REDACTED] who stated that the Beneficiary was an internationally recognized jockey, and "one of the top ten leading riders at [REDACTED] racetracks in New Mexico and Colorado. In response to the Director's request for evidence (RFE), the Petitioner filed two additional letters. The first letter, from [REDACTED], Deputy Director for the [REDACTED] does not mention the Beneficiary. The second letter, from horse trainer [REDACTED] states that the Beneficiary was one of the best jockeys in Mexico, and "has been a continual leader in the jockey colony for New Mexico, Arizona and Colorado." Contrary to the Petitioner's assertion on appeal that the Director "failed to take into account any of the information contained in the expert letters," the Director discussed the letters but determined that they do not detail how the Beneficiary is internationally recognized, and, as such, do not meet the criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(v). Given that the letters focus on a limited area and are conclusory, the record supports the Director's conclusion.

The regulatory criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(vi) requires evidence that the Beneficiary is ranked. The Director acknowledged the Petitioner's exhibits, including information pertaining to the [REDACTED] process, the Beneficiary's [REDACTED] jockey profiles for 2013 and 2014, and the Beneficiary's [REDACTED] listing of starts in 2013. However, the Director noted that the Petitioner did not offer the Beneficiary's individual ranking in the sport. Moreover, the letter from [REDACTED] acknowledges that "there is not any international ranking for jockeys," a fact which the Petitioner acknowledges on appeal. As such, the Director determined that the Petitioner did not submit material meeting the plain language of the regulatory criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(vi). While the Petitioner questions on appeal why the Director discussed rankings when none exist, it remains one of the criteria a petitioner may satisfy. Accordingly, the Director did not err in addressing rankings and the record supports the Director's findings.

(b)(6)

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The criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(vii), requires the Petitioner to establish that the Beneficiary has received a significant honor or award in the sport. The Petitioner submitted copies of numerous photographs indicating that the Beneficiary obtained victories while working as a jockey in the United States in 2004 and between June 2010 and September 2013, and similar materials reflecting that the Beneficiary obtained victories while working as an jockey in Mexico in 2003 and between 1992 and 1996. The Petitioner also provided a copy of the Beneficiary's winnings between 1985 and 1996 at the [REDACTED] a Mexican racetrack.

In the record are foreign-language newspaper articles mentioning several of the Beneficiary's victories as a jockey in Mexico. These translations are not certified by the translator and, thus, do not comport with the regulation at 8 C.F.R. § 103.2(b), which states: "Any document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English." The Petitioner also provided a foreign-language article describing the Mexican horse race [REDACTED] and indicating that the Beneficiary's mount won the race in [REDACTED]. However, the Petitioner has not offered the original source document and, while the Petitioner filed the English version of this article, the English is generated by online translation tools. Again, this translation does not comport with the requirements of the regulation at 8 C.F.R. § 103.2(b)(3), which requires both submission of the foreign language original and the translator's certification. *See* 8 C.F.R. § 103.2(b). None of the testimonial letters mention any of the Beneficiaries specific victories as a jockey. The exhibits include copies of several trophies but the awards do not contain the Beneficiary's name.

The Director determined that the record does not show that the Beneficiary has received a significant honor or award in the sport. While the Director acknowledged the Beneficiary's numerous victories, the Director determined that the Petitioner cannot satisfy this criterion without establishing the significance of the events at which the Beneficiary competed. On appeal, the Petitioner states that the Beneficiary "won the [REDACTED] in Mexico before coming to the United States, which is like winning the [REDACTED] or the [REDACTED]. The record does not contain corroborating evidence of that assertion as required. *See Matter of Soffici*, 22 I&N Dec. 158, 165 (Assoc. Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

Finally, we acknowledge that USCIS has previously approved a P-1 nonimmigrant petition filed by the Petitioner on behalf of the Beneficiary. However, each petition filing is a separate proceeding with a separate record and separate burden of proof. In making a determination of statutory eligibility, we are limited to the information contained in the record of proceeding. *See* 8 C.F.R. § 103.2(b)(16)(ii). Despite any number of previously approved petitions, we do not have any authority to confer an immigration benefit when the Petitioner does not meet its burden of proof in a subsequent petition. *See* section 291 of the Act. We are not required to approve applications or petitions where eligibility has not been shown, merely because of prior approvals that may have been erroneous. *See, e.g. Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm'r

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1988). Upon review, we agree that the evidence submitted does not demonstrate that the Beneficiary is currently competing at a level commensurate with an internationally-recognized athlete.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. 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, the Petitioner has not satisfied that burden.

**ORDER:** The appeal is dismissed.

Cite as *Matter of R-E-*, ID# 14788 (AAO Nov. 2, 2015)