



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

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

MATTER OF GDSR-S- INC.

DATE: MAY 5, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

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

The Petitioner, which is engaged in the business of raising, training, buying, and selling horses, seeks to classify the Beneficiary as an internationally-recognized athlete.¹ *See* Immigration and Nationality Act (the Act) section 101(a)(15)(P)(i), 8 U.S.C. § 1101(a)(15)(P)(i). This P-1A classification makes visas available to certain high performing athletes and coaches. Sections 204(i)(2) and 214(c)(4)(A) of the Act.

The Director, Vermont Service Center, denied the petition. The Director concluded that the Petitioner did not show that the Beneficiary, as an individual athlete, has achieved international recognition in his sport based on his own reputation as defined at 8 C.F.R. § 214.2(p)(3). Specifically, the Director determined that the Petitioner did not satisfy at least two of the seven criteria at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2) as required.

The matter is now before us on appeal. In its appeal, the Petitioner submits a brief statement.

We will summarily dismiss the appeal.

I. LAW

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. Section 214(c)(4)(A)(ii)(I) of the Act, 8 U.S.C. § 1184(c)(4)(A)(ii)(I), explains 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.

¹ Although the Petitioner also refers to the Beneficiary as a “professional athlete,” it has neither articulated a position nor presented evidence that the Beneficiary qualifies as a professional athlete as that term is defined in the section 204(i)(2) of the Act. As such, we will not consider whether the Beneficiary qualifies as a professional athlete pursuant to section 214(c)(4)(A)(i)(II) of the Act.

The implementing regulation at 8 C.F.R. § 214.2(p)(4)(ii) sets forth the evidentiary requirements for internationally-recognized athletes under section 101(a)(15)(P)(i) of the Act 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 [criteria at subparagraphs (i) through (vii)].

Additionally, the regulation at 8 C.F.R. § 214.2(p)(2)(ii) states that all petitions for P classification shall be accompanied by contracts, an explanation of the nature of the events (including dates) and a written consultation from a labor organization.

II. ANALYSIS

The Petitioner seeks to employ the Beneficiary as a Professional Jockey for a period of three years. The Petitioner argued that the Beneficiary satisfies the evidentiary requirements pertaining to athletes who perform at an internationally recognized level of performance; specifically, it stated that it met the criteria listed at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(ii) and (v). The Director denied the petition, finding that the submitted materials do not meet any of the criteria at 8 C.F.R. § 214.2(p)(4)(ii) such that the Petitioner has established that the Beneficiary is currently competing at a level commensurate with an internationally-recognized athlete.

Specifically, the Director found that the record did not contain any evidence that the Beneficiary participated in international competition with a national team. 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(ii).

(b)(6)

Matter of GDSR-S- Inc.

The Director also noted that the testimonial letters described the Beneficiary's past experience as an exercise rider, galloper jockey, and horse trainer, rather than as a professional jockey. 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(v). These duties raise concerns as to whether the Beneficiary would solely compete as an internationally recognized athlete at specific athletic events.

With the Form I-290B, Notice of Appeal or Motion, the Petitioner requests a "full and complete review" of the record and says it is attempting to obtain "documentation from the authors of the submitted letters" and "letters recognizing the Beneficiary as an internationally recognized professional." Finally, the Petitioner advises that it will be "requesting evidence as for the second criterion." The Petitioner subsequently affirms that it has "made all diligent efforts to obtain documentation from the authors of the submitted letters" and reiterates that it "will be requesting evidence as for the second criterion."

In support of the appeal, the Petitioner offers a printout from [REDACTED] confirming that [REDACTED] "dominates horse racing in [REDACTED] and is one of the great horse racing owners in the world." As of this date, the Petitioner has not submitted any additional materials, and the record will be considered complete. The record does contain a letter from [REDACTED], affirming his "intention of hiring [the Beneficiary] as a Horserider [*sic*] /Jockey (breaking in – pre training)." While the Director did note the lack of evidence regarding the credentials of the authors, the information regarding the prestige of [REDACTED] in the horse racing industry does not overcome the Director's other concern that the letters, including the one from an individual associated with [REDACTED] do not discuss how the Beneficiary is internationally recognized. It also remains that neither this document nor the Petitioner's statements on appeal address the Director's concern that the record lacks corroboration that the Beneficiary participated on a national team or in an international competition.

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, we concur with the Director's decision and affirm 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. For the reasons discussed above, the single new item the Petitioner offers on appeal does not sufficiently overcome all of the Director's concerns.

Matter of GDSR-S- Inc.

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 summarily dismissed pursuant to 8 C.F.R. § 103.3(a)(1)(v).

Cite as *Matter of GDSR-S- Inc.*, ID# 16480 (AAO May 5, 2016)