U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF C-P-C- LLC

DATE: MAY 25, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

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

The Petitioner, a fitness and recreational sports center, seeks to classify the Beneficiary as an internationally-recognized athlete. *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 based on three separate grounds, concluding that the Petitioner: (1) did not demonstrate that the Beneficiary would be coming to the United States to compete in athletic competition(s) which require participation of an athlete who has an international reputation, pursuant to 8 C.F.R. § 214.2(p)(4)(ii); (2) did not establish that the Beneficiary seeks to enter the United States solely for the purpose of performing as an athlete with respect to a specific athletic competition, pursuant to section 214(c)(4)(A)(ii)(I) of the Act, 8 C.F.R. § 214.2(p)(1)(ii)(A)(1); and (3) 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).

The matter is now before us on appeal. In its appeal, the Petitioner submits a brief and additional evidence and maintains that the Director erred in determining that the Beneficiary is not eligible for the requested classification.

Upon *de novo* review, we will 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) 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;

(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 [certain conditions apply, or]

(IV) is a professional athlete or amateur athlete who performs individually or as part of a group in a theatrical ice skating production . . .[.]

Further, section 214(c)(4)(A)(ii)(I) of the Act 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 implementing 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.

More specifically, the regulation at 8 C.F.R. § 214.2(p)(1)(ii)(A)(*1*) provides that a P-1 classification applies to a foreign national who is coming temporarily to the United States to perform at specific athletic competitions as an athlete, individually or as part of a group or team, at an internationally recognized level of performance.

For clarification, the regulation at 8 C.F.R. § 214.2(p)(3) defines the following terms:

> *Competition, event or performance* means an activity such as an athletic competition, athletic season, tournament, tour exhibit, project, entertainment event or engagement . . . . An athletic competition or entertainment event could include an entire season of performances.
>
> . . . .
>
> *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.

Moreover, the regulation at 8 C.F.R. § 214.2(p)(4)(ii) sets forth the documentary requirements for P-1 athletes:

(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)].

Finally, the regulation at 8 C.F.R. § 214.2(p)(2)(ii) lists additional evidence that must accompany the petition including, in part, a written consultation from a labor organization.

II. ANALYSIS

A. Introduction

The Petitioner filed the Form I-129, Petition for a Nonimmigrant Worker, seeking to have the Beneficiary compete as a professional tennis player at various professional tennis events throughout the United States for a period of three years. The record shows that the Beneficiary is a year-old tennis player who has participated in amateur tennis competitions during his college career in the United States between 2010 and 2014. The Petitioner stated that the Beneficiary satisfies the evidentiary requirements pertaining to athletes who perform at an internationally recognized level of performance.[1] The Director denied the petition concluding that the Petitioner did not establish the

[1] Although the Petitioner refers to the Beneficiary as a "Tennis Professional," it neither articulated a basis for this characterization nor presented evidence that the Beneficiary qualifies as a professional athlete as that term is defined in section 204(i)(2) of the Act. *See also* sections and 101(a)(15)(p)(i)(a) and 214(c)(4)(A)(i)(II) of the Act.

Beneficiary's eligibility for the classification sought. In its appeal, the Petitioner maintains that the Director erred in determining that the record did not establish the Beneficiary's eligibility for the requested classification.[2]

This decision will first address whether the Petitioner has shown that the Beneficiary would be coming to the United States to compete in athletic competition(s) which require participation of an athlete who has an international reputation, pursuant to 8 C.F.R. § 214.2(p)(4)(ii). We will then examine whether the record establishes that the Beneficiary is coming to the United States solely for the purpose of performing in athletic competition, pursuant to section 214(c)(4)(A)(ii)(I) of the Act, 8 C.F.R. § 214.2(p)(1)(ii)(A)(1), and finally, whether the Petitioner has established that the Beneficiary satisfies at least two out of the seven evidentiary criteria listed at 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*). After careful review of the entire record and for the reasons stated herein, we concur with the Director's determination that the Petitioner has not established the Beneficiary's eligibility for the requested classification.

B. Performing Services that Require Participation of an Athlete with an International Reputation

Pursuant to 8 C.F.R. § 214.2(p)(4)(ii)(A), an individual P-1 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. The Director determined that the Petitioner did not satisfy this requirement because it did not present evidence to establish that the specific competitions in which the Beneficiary will compete require the participation of an athlete who has an international reputation.

The Petitioner's initial letter stated that the Beneficiary "currently plays professional tournaments," and that part of his duties will be to "continue to be involved in playing tournaments on the circuit." The Petitioner provided confirmation of the Beneficiary's registration for three tournaments sponsored by the in which the Beneficiary will compete: and the The Petitioner's initial submission also included letters from the Beneficiary's colleagues, tennis coaches and who attested that he "continues to participate in tennis tournaments in the [United States] and abroad and clearly these tournaments require a level of expertise and fitness that can only be achieved by players of the highest level in this sport."

[2] The Petitioner also alleges that the Director's decision contained boilerplate language that shows that the Director did not properly consider the specific facts of the matter at hand, specifically, boilerplate language that the instant petition was filed for an "amateur skater" in a "Theatrical Ice Skating Production." There is no evidence that the Director used boilerplate language and did not consider the facts of the present case. In the relevant portion of the decision, the Director correctly noted that a beneficiary may qualify for P-1A classification "as an internationally recognized athlete, a professional athlete, an amateur athlete, or as a professional or amateur skater who performs individually or as part of a group in a theatrical ice skating production," consistent with language from section 214(c)(4)(A)(i) of the Act, before concluding that the Petitioner seeks to classify the Beneficiary as an individual who is an internationally recognized athlete, and that the other possible grounds of eligibility would not be discussed.

The Director issued an RFE instructing the Petitioner to provide evidence, *inter alia*, that the Beneficiary will "be coming to the [United States] to perform services requiring an internationally recognized athlete." The Director noted that according to information on the website regarding the events, although the tournaments indicated an "advanced" skill level for participation, the events were open to all and there was no selection process, so that all registered players would be selected. The website indicated the was open to all members, including junior players, with no indication of a skill level required for participation.

In response, the Petitioner submitted the Beneficiary's affidavit that he is qualified for, and will enter to play in an additional 24 specified competitions, comprised of 3 and 21 The Petitioner provided confirmation of the Beneficiary's registration for several of those events. It also submitted expert letters from editor of a member and manager of the and professional tennis players and and stated that the Beneficiary's selection to play on professional-level tournaments is evidence of his international recognition in the sport. and acknowledged that any member may register to compete in a but maintained, along with that only "the best," "the highest ranking" or "those with international recognition" are chosen to participate in such events. The letters do not provide the entry requirements for the specified events, or similar information establishing that the events require the participation of an athlete who has an international reputation.

The Petitioner urged that the Director's interpretation of what constitutes "services requiring an internationally recognized athlete" is based upon a misunderstanding of how professional tennis enterprises determine their participants' eligibility. The Petitioner stated that "[i]n fact, no tournament – not even the famous events – and the respectively [,] requires 'international recognition' or a high level of achievement for entry," and submitted the entry requirements for the as an example. The Petitioner argued that it would be unfair to find that the Beneficiary is ineligible for P-1 status based upon the entry requirements of the specified competitions. Instead, the petitioner requested that U.S. Citizenship and Immigration Services (USCIS) should accept evidence that the specified competitions "routinely attract highly talented, internationally recognized players." The Petitioner attested that events sponsored by the attract "[s]ome of the top players in the world," by offering tournament prize money and limiting the number of participants.

The Director's decision concluded that the Petitioner did not present evidence to establish that the specified competitions require the participation of an athlete who has an international reputation. The Director noted that pursuant to the information on the and websites, the and the are open to any aspiring tennis professionals and any tennis player can register to compete to start earning ranking points.

On appeal, the Petitioner reaffirms the arguments it advanced in response to the RFE. The Petitioner provides a 2015 to show that competitions, like those in the offer tournament prize money and limit the number of participants. We will not address here the Petitioner's argument that there are not any tennis competitions that require an athlete with an international reputation. The regulation at 8 C.F.R. § 214.2(p)(4)(ii)(A) requires us to examine the competitions in which the Beneficiary will compete. Here, the Petitioner provides no further evidence to resolve how the rules of the and the support a finding that the relevant tournaments require participation of an athlete with an international reputation. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

Finally, the Petitioner maintains that the applicable regulation is unfair, and requests that we modify it. We cannot find that the Director erred by following the regulations. *See, e.g., Panhandle Eastern Pipe Line Co.* v. *Federal Energy Regulatory Commission.* 613 F.2d 1120 (C.A.D.C. 1979) (an agency is bound by its own regulations); *Reuters Ltd. v. F.C.C.,* 781 F.2d 946, (C.A.D.C. 1986) (an agency must adhere to its own rules and regulations; ad hoc departures from those rules, even to achieve laudable aims, cannot be sanctioned). An agency is not entitled to deference if it fails to follow its own regulations. *U.S. v. Heffner,* 420 F.2d 809, (C.A. Md. 1969)(government agency must scrupulously observe rules or procedures which it has established and when it fails to do so its action cannot stand and courts will strike it down). We are subject to USCIS regulations, and have no authority to modify or strike down those regulations. Furthermore, an administrative appeal is not the venue for challenging the regulations. Accordingly, we have no authority to address the Petitioner's claim that we modify the applicable regulation.

Upon review, the Director correctly determined that the regulation at 8 C.F.R. § 214.2(p)(4)(ii) is applicable in this matter and, as discussed, that the Petitioner has not demonstrated that the specific competitions in which the Beneficiary will compete require participation of an athlete who has an international reputation.

C. Purpose for Coming to the United States

The second issue the Director addressed is whether the record establishes that the Beneficiary is coming to the United States solely for the purpose of performing with respect to a specific athletic competition. *See* section 214(c)(4)(A)(ii)(I) of the Act; 8 C.F.R. § 214.2(p)(1)(ii)(A)(1).

The Petitioner stated on Form I-129 that the Beneficiary will receive a weekly wage of $1520 and a $600 annual bonus. The Petitioner indicated on the O and P Classifications Supplement to Form I-129 that its initial letter described the nature of the Beneficiary's event and the duties he will perform. In the letter, the Petitioner's executive director, stated that the Beneficiary's duties will be to "continue to be involved in playing tournaments on the and

participate in incidental coaching and instruction of players involved in playing competitive tennis. He will participate in coaching camps and other conditioning camps before the start of the circuit." The Petitioner's initial evidence also included a testimonial letter from the Petitioner's head tennis professional, stating that "[the Beneficiary] has been working [alongside] of me in developing for our athletes," and described the Beneficiary as being among those tennis professionals who "possess the triple crown of, excellent tennis playing, coaching and teaching skill sets." As previously discussed, the Petitioner further submitted confirmation of the Beneficiary's registration for three tournaments sponsored by the in which the Beneficiary will compete between and 2015.

In the RFE, the Director requested additional evidence to address whether the Beneficiary will be coming to the United States solely to compete in athletic competitions. In its response the Petitioner explained that the Beneficiary previously worked for the Petitioner pursuant to his student status"and was participating in furthering their Tennis Program as part of his management related activities," but emphasized that the initial letter from "does not indicate that [the] Beneficiary will, in any way, participate in coaching, or instructing tennis professionals while in P-1 status." (Emphasis in original.) The Petitioner submitted an additional letter from explaining that when he wrote his initial letter, "[the Beneficiary] was working at the [Petitioning business] through which was approved by his school," that the Beneficiary "was recruited to manage [the Petitioner's] Tennis Development program," and "came to us with several ideas for advanced tennis coaching and management." Upon review, letters do not describe the nature of the Beneficiary's anticipated duties.

The Director denied the petition on August 24, 2015, concluding that the Petitioner did not establish that the Beneficiary is coming to the United States solely for the purpose of performing as an athlete with respect to a specific athletic competition. The Director determined that, based on the Petitioner's own statements in its initial letter, the Petitioner seeks to have the Beneficiary provide tennis coaching and instruction, in addition to the Beneficiary's participation in athletic competition. Therefore, the Director found that the Beneficiary will not be solely competing while in the United States. On appeal, the Petitioner states that "[t]he Beneficiary is seeking P-1 classification to continue playing professional tournaments in the United States."

Section 214(c)(4)(A) specifically states that section 101(a)(15)(P)(i)(a) refers to a foreign national who "performs as an athlete" and "seeks to enter the United States temporarily and solely for the purpose of performing as . . . an athlete with respect to a specific athletic competition." Upon review, the Petitioner has not established that the Beneficiary is coming to the United States solely to perform as such an athlete. While the COMPETE Act opened the P-1 classification to certain coaches, the Beneficiary does not meet the criteria set forth at section 214(c)(4)(A)(i)(III) of the Act, which limits P-1 classifications to coaches of teams or franchises that are located in the United States and members of a foreign league or association of 15 or more amateur sports teams. Regardless, the Petitioner expressly seeks to classify the Beneficiary as an athlete who performs at an internationally recognized level of performance, pursuant to section 214(c)(4)(A)(i)(I) of the Act.

We acknowledge that the Beneficiary intends to compete in tennis competitions, as set forth in the [redacted] However, in its initial letter, the Petitioner has also unequivocally indicated that he will also be serving as a coach and instructor for its organization. Based on the submitted evidence, the Director appropriately concluded that the Beneficiary would not be coming to the United States solely for the purpose of competing in an athletic competition or competitions. Rather, the evidence shows that he will be a tennis coach/instructor in addition to competing in any athletic tournaments. There is no provision that would allow a foreign national to come to the United States individually as a P-1 coach other than the above-referenced statutory provision allowing P-1 classification of coaches who participate in certain qualifying amateur sports leagues or associations, or as a P-1 essential support foreign national accompanying a P-1 athlete or athletes. *See* 8 C.F.R. § 214.2(p)(4)(iv). The statute and regulations do not provide for P-1 classification of an individual who will serve as both a competitive athlete and coach/instructor.

D. The Beneficiary's International Recognition as an Individual Athlete

The final issue addressed by the Director is whether the Petitioner has shown 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 at least two out of the seven evidentiary criteria listed at 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*). For the reasons discussed, we find that the Petitioner has not established the Beneficiary's eligibility as an internationally recognized athlete. First, we note those criteria that the Petitioner has never addressed, and for which the record contains no evidence. Specifically, the Petitioner has not documented the Beneficiary's participation with a U.S. major league team, or documented that the Beneficiary is ranked internationally, under 8 C.F.R. §§214.2(p)(4)(ii)(B)(*2*)(*i*), and (*vi*). On appeal, the Petitioner does not contest the Director's conclusion that these criteria are not supported in the record and we agree with the Director.

Evidence of having participated in international competition with a national team

The Director found that the Petitioner has not documented the Beneficiary's participation in international competition with a national team, pursuant to 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(*ii*). We agree. In support of this criterion, the Petitioner submitted two foreign language articles about the Beneficiary's tennis achievements from the Brazilian publication [redacted] We note that the translations of the articles do not comport with the regulation at 8 C.F.R. § 103.2(b)(3), since they are incomplete and uncertified, therefore the articles have significantly diminished probative value. The first article states that the Beneficiary played at the [redacted] in Brazil for 10 years before playing tennis in the [redacted] where his team won the [redacted] championship. The article describes the [redacted] as "a reference for other players in the national tennis scenario" with "coaches who are specialized in working with high performance players and tennis development." The second article states that the Beneficiary played with the [redacted] from childhood to age [redacted] before "[the Beneficiary] gave up on trying to go to [redacted] in Brazil and followed his dream to go play tennis in the United States." The article describes the [redacted] as being "known to offer high level training on court six times a week plus three more days of fitness training at the gym." The submitted articles do not describe the

as a national team of Brazil or establish that the Beneficiary has participated in international competition. Therefore, this evidence does not establish that he has competed in international competition as a member of a national team, as required by the plain language of this regulatory criterion.

Evidence of having participated to a significant extent in a prior season for a U.S. college or university in intercollegiate competition

The Director determined that the Petitioner's submissions satisfy the plain language of the regulation at 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(*iii*). We agree that the Beneficiary meets this criterion. The evidence shows that the Beneficiary competed as a member of the in 2010 and 2011. The submitted materials reflect that the Beneficiary had a ranking of in competition in the 2010 Rankings, administered by the and that he won the doubles competition in the 2010 He also participated in singles and doubles competition in the 2010 and doubles competition in the 2011

Additionally, the Beneficiary competed as a member of 2012 and 2013 The head coach of the team, described the Beneficiary as the team's "number one player." The submitted materials demonstrate that in the Beneficiary had a ranking of in singles competition in the 2013 and in doubles competition in the 2014 The materials also indicate that the Beneficiary was named to the 2013 and 2014 Accordingly, we concur with the Director's determination that the Petitioner has satisfied the plain language of this criterion.

A written statement from an official of the governing body of the sport which details how the alien or team is internationally recognized

The Director concluded that the Petitioner's evidence does not satisfy the evidentiary criterion at 8 C.F.R. §214.2(p)(4)(ii)(B)(*2*)(*iv*). The Beneficiary submitted a "no objection" letter from Executive Director, noting that the is the national governing body of the sport of tennis in the United States. The Director's RFE advised the Petitioner that the letter from did not satisfy this evidentiary criterion, because is the head of a regional branch of the not the head of the organization, and because "the governing body of tennis is the In response, the Petitioner provided an additional letter from in which he stated that ' does not issue letters for the purpose of a P-1 Visa." He also listed the Beneficiary's past accomplishments and stated that "as such, the classifies him as a nationally and internationally recognized athlete deserving of a P-1 Visa." The Director determined that letter does not meet this criterion because "the world governing body of the sport of tennis is the " On appeal, the Petitioner argues that the plain language of this criterion does not

require a written statement from the world governing body of the sport, as stated in the Director's decision. We agree and therefore withdraw the Director's finding on that particular issue. Nevertheless, we agree with the Director's conclusion that the submitted materials do not satisfy this criterion. While letters are sufficient to meet the consultation requirement pursuant to 8 C.F.R. § 214.2(p)(2)(ii)(D), they are not sufficient under 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(*iv*), because they do not detail how the Beneficiary is internationally recognized. However, because second letter mentions some of the Beneficiary's competition results, we will discuss the letter below under the fifth criterion.

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

The Director determined that the Petitioner's evidence does not meet the evidentiary criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(*v*). With respect to the Beneficiary's qualifications and international recognition, the Petitioner's initial submission included letters from the Beneficiary's mentors and colleagues, Director of professional tennis player, tennis coach, and the Petitioner's Head Tennis Professional. praised the Beneficiary's "excellent tennis playing, coaching and teaching skill sets." and all described the Beneficiary as "an accomplished player who has played at a very high level," who "continues to participate in tennis tournaments in the U.S. and abroad," and possesses "a level of expertise and fitness that can only be achieved by players of the highest level in this sport." As noted by the Director, the multiple identical statements in those letters suggest that their language was not written independently. While it is acknowledged that the authors have provided their support for this petition, it is unclear whether the letters reflect their independent observations and thus an informed and unbiased opinion of the Petitioner's work. In evaluating the evidence, the truth is to be determined not by the quantity of evidence alone but by its quality. *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

In response to the RFE, the Petitioner provided a letter from tennis champion, as well as the previously mentioned letters from and All of those authors opined that the fact that the Beneficiary continues to compete in a professional-level tournaments in the United States is evidence that he is internationally recognized and of a skill substantially above that ordinarily encountered. Additionally, mentioned that the Beneficiary "was ranked in the in his home country of Brazil," and "was critical in his team's success at the and was also ranked in doubles in the state." emphasized that in college the Beneficiary was "ranked in singles," and stated that the Beneficiary achieved a ranking as a junior player in the "top in his home state of and was twice named to the (2013, 2014). and stated that the Beneficiary's junior ranking in Brazil rose from the top to the top in the nation, and from the top to the top in his home state of

While the Director acknowledged the Beneficiary's accomplishments, she determined that the Petitioner had not satisfied this criterion by corroborating the Beneficiary's ranking in Brazil or establishing the significance of the events at which the Beneficiary competed in the United States. We agree with the Director that none of these letters meets the regulatory requirements set forth at 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(*v*). The letters are written in general terms that do not detail how the Beneficiary is internationally recognized. They contain summary statements that as a result of the Beneficiary's rankings as a junior player in Brazil, his accomplishments in U.S. collegiate tournaments, and his play in the tennis circuit, the Beneficiary is an internationally recognized tennis player. USCIS need not accept primarily conclusory assertions. *1756, Inc. v. The Attorney General of the United States,* 745 F. Supp. 9, 15 (D.C. Dist. 1990). We may, in our discretion, use as advisory opinion statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, we are ultimately responsible for making the final determination regarding a Beneficiary's eligibility for the benefit sought. *Id.* The submission of letters of support from the Petitioner's personal contacts is not presumptive evidence of eligibility; we may evaluate the content of those letters as to whether they support the Beneficiary's eligibility. *See id.* at 795-796; *see also Matter of V-K-*, 24 I&N Dec. at 500 n.2 (BIA 2008). For the above reasons, we affirm the Director's finding that the letters fall short of detailing how or whether the Beneficiary is in fact internationally recognized.

Additionally, the Petitioner submitted the above-mentioned articles in with respect to the Beneficiary's tennis achievements. One of the articles mentioned that the Beneficiary had some regional recognition in in California. Both articles also suggested that the Beneficiary had some local recognition in Brazil with the but the articles do not indicate that as a junior tennis player the Beneficiary was a well-known tennis player when compared to others in the club, or mention that he achieved a state/national ranking in junior play, as stated in several of the testimonial letters. The articles, therefore, reflect that the Beneficiary is an up-and-coming tennis player instead of one who is already internationally recognized for his achievements in the field. Finally, while on appeal the Petitioner states that is "a publication with a circulation or around 30,000 readers," the Petitioner provided no corroborating information establishing that it is a member of the media devoted to sports reporting, or pertaining to the publication's significance in the field and its readership. Based on the foregoing, the record does not demonstrate that the Beneficiary satisfies the criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(*v*).

Evidence that the alien or team has received a significant honor or award in the sport

The Director determined that the Petitioner's evidence does not satisfy the final criterion at issue, set forth at 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(*vii*). While the Director acknowledged the Beneficiary's results in various events at which he competed, the Director determined that the Petitioner had not corroborated the significance of these events. On appeal, the Petitioner maintains that the Beneficiary meets this criterion based upon the Beneficiary's receipt of awards and honors during his college tennis career, in having been named to the 2013 and 2014 having been selected as a member of the 2014 and receiving a tennis scholarship to attend for the 2012-2013 academic year.

With regard to the tennis scholarship, the Petitioner has not established how receipt of a sports scholarship equates to a significant honor or award in the sport. Competitions for college scholarships are, by definition, not open to all tennis players, but limited to a very restricted segment of tennis players, students. The scholarship award may well be a significant award among student tennis players; the Petitioner has not shown, however, that it constitutes a significant award within the sport as a whole.

The Beneficiary was named to the 2013 and 2014 and selected as a member of the 2014 based upon his participation in the 2012 and 2013 The Petitioner has not submitted evidence that these accomplishments convey national or international recognition in the sport. There is no evidence, for example, that the Beneficiary's results were reported by the sports media in the United States or otherwise recognized beyond the context of the competition. The Petitioner offers no documentary evidence to support its claim that those honors and tournaments in question are major, national tournaments of a stature to confer international recognition. Accordingly, we agree with the Director's determination that the Petitioner has not submitted evidence that the Beneficiary has achieved a significant honor or award in his sport, pursuant to 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(*vii*).

In summary, the evidence submitted by the Petitioner does not satisfy at least two of the evidentiary criteria listed in the regulation at 8 C.F.R. § 214.2(p)(4)(ii)(*B*)(*2*). Therefore, the Petitioner did not establish that the Beneficiary has achieved international recognition in the sport of tennis.

III. CONCLUSION

The Petitioner did not establish that the Beneficiary would be coming to the United States solely for the purpose of performing as an athlete with respect to a specific athletic competition, pursuant to section 214(c)(4)(A)(ii)(I) of the Act, or that such athletic competition requires participation of an athlete who has an international reputation, pursuant to 8 C.F.R. § 214.2(p)(4)(ii)(A). Further, the Petitioner's submissions do not satisfy two of the evidentiary criteria listed in the regulation at 8 C.F.R. § 214.2(p)(4)(ii)(*B*)(*2*). Consequently, the Petitioner has not shown that the Beneficiary is eligible for classification as an internationally recognized athlete in the sport of tennis.

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, that burden has not been met.

ORDER: The appeal is dismissed.

Cite as *Matter of C-P-C- LLC*, ID# 16596 (AAO May 25, 2016)