U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF W-C-T-T-C-

DATE: OCT. 24, 2016

APPEAL OF VERMONT SERVICE CENTER DECISION

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

The Petitioner, a table tennis club, seeks to classify the Beneficiary as an internationally recognized athlete. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(P)(i)(a), 8 U.S.C. § 1101(a)(15)(P)(i)(a). This P-1A classification makes nonimmigrant visas available to certain high performing athletes and coaches. Sections 204(i)(2) and 214(c)(4)(A) of the Act.

The Director denied the petition, concluding that the Petitioner 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).

On appeal, the Petitioner maintains that the Director erred in determining that the Beneficiary is not eligible for the classification sought and submits a brief and additional material.

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 . . .[.]

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

The regulation at 8 C.F.R. § 214.2(p)(3) defines "competition" as follows:

> *Competition, event or performance* means an activity such as an athletic competition, athletic season, tournament, tour exhibit, project, entertainment event or engagement. Such activity could include short vacations, promotional appearances for the petitioning employer relating to the competition, event or performance, and stopovers which are incidental and/or related to the activity. An athletic competition or entertainment event could include an entire season of performances. A group of related activities will also be considered an event.

Additionally, the regulation at 8 C.F.R. § 214.2(p)(4)(i)(A) allows classification for those who are internationally recognized athletes based on their own reputation and achievements as an individual.

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.

Finally, 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 record shows that the Beneficiary is a year-old table tennis player who has participated in national junior and regional table tennis tournaments in China, his native country, and amateur tournaments in the United States between and The Petitioner filed the Form I-129, Petition for a Nonimmigrant Worker, seeking to have the Beneficiary compete as a professional table tennis player at various professional table tennis events throughout the United States for a period of three years. It indicated on Form I-129 that the Beneficiary will receive a monthly wage of

$1,800 and "other compensation" in the form of "[p]rize money of tournaments and contests." On the O and P Classifications Supplement to Form I-129 the Petitioner explained that the Beneficiary was coming to the United States to "[p]articipate [in] high level contests on behalf of the Club and coach Club members."

The Petitioner's initial letter stated that the Beneficiary satisfies the evidentiary requirements pertaining to athletes who perform at an internationally recognized level of performance. The letter reiterated that it intends to employ the Beneficiary "to participate in high-level table tennis competitions in the United States and worldwide as well as train our athlete members." The Petitioner explained that the Beneficiary will be the "side coach" and training partner of the petitioning club's manager, whom the record shows is a member of the in table tennis, to prepare her for the The letter emphasized that the Beneficiary would "participate in high-level table tennis competitions with [the club's manager] and help training [U.S.] table tennis players for three years." The Petitioner's initial exhibits included its signed agreement with the Beneficiary stating that he will "play regional, national and international high-level contests that Club will decide, including but not limited to ' and an itinerary of annual tournaments in which the Beneficiary will participate.

The Director issued a request for evidence (RFE), specifically requesting that the Petitioner submit, *inter alia*, documentation to 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. *See* section 214(c)(4)(A)(ii)(I) of the Act; 8 C.F.R. § 214.2(p)(1)(ii)(A)(1). The Petitioner's response to the RFE contained a listing of proposed events sponsored by in which the Beneficiary will compete, and events sponsored by the in which the petitioning club's manager will compete.

The Director denied the petition, 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 evidence submitted, the Beneficiary's purpose for entering the United States includes performing as a coach of club members, including the petitioning club's manager. The Director emphasized that in the case of a P-1 athlete, the statute and regulations do not allow for incidental activities such as coaching.

On appeal, the Petitioner argues that "the only ground for the denial does not exist anymore" because the Beneficiary's proposed duties as the side-coach/practice partner of the Petitioner's manager will have ended with the The Petitioner emphasizes that "participating [in] athletic competitions is . . . [the Beneficiary's] sole purpose now." The Petitioner submits an affidavit from the Beneficiary, affirming that "a few months training [the petitioning club's manager] for [the should not be misinterpreted as my main purpose of my P- 1 visa application. Over the next three years of my contract duration with [the Petitioner] I plan on competing on [an] every other week basis in [the] New York and New Jersey area."

We acknowledge that the Beneficiary intends to compete in regional and national table tennis competitions, as set forth in the submitted tournament schedules. However, as noted by the Director, the initial letter from the petitioning club's manager explained that the Beneficiary's duties would include coaching/training athlete members of the club for three years, indicating that his proposed coaching/training duties would continue beyond the period of the and would involve athletes other than the petitioning club's manager. Alternately, the Petitioner urges that the Beneficiary's proposed training/coaching activities would fall within the scope of permitted activities under the definition of "competition" in the regulations because they are promotional in nature. The Petitioner does not, however, cite any authority for this proposition or demonstrate that the Beneficiary's duties would be incidental or related to the specified athletic competitions at which he will perform.

Section 214(c)(4)(A) specifically states that section 101(a)(15)(P)(i)(a) refers to an alien 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." Where the language of a statute is clear on its face, there is no need to inquire into Congressional intent. *INS v. Phinpathya*, 464 U.S. 183 (1984). 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.

Based on the record submitted, 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 indicates that the Beneficiary will be a table 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 alien 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. For these reasons, the appeal will be dismissed.

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. Consequently, the Petitioner has not met its 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).

ORDER: The appeal is dismissed.

Cite as *Matter of W-C-T-T-C-*, ID# 12398 (AAO Oct. 24, 2016)