



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

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

In Re: 25787774

Date: APR. 06, 2023

Appeal of California Service Center Decision

Form I-129, Petition for a Nonimmigrant Worker (Extraordinary Ability – O)

The Petitioner, a sports camp, seeks to temporarily employ the Beneficiary as a soccer director. To do so, the Petitioner seeks O-1 nonimmigrant classification, available to individuals who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(O)(i), 8 U.S.C. § 1101(a)(15)(O)(i).

The Director of the California Service Center denied the petition, concluding that the Petitioner did not demonstrate that the Beneficiary satisfied the initial evidentiary criteria applicable to individuals of extraordinary ability in athletics: either receipt of a major, internationally recognized award or at least three of eight possible forms of documentation. 8 C.F.R. § 214.2(o)(3)(iii)(A)-(B). The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner submits a brief and contends that the Director did not follow U.S. Citizenship and Immigration Services (USCIS) guidance in determining whether the Beneficiary is coming to work in her “area of extraordinary ability.”<sup>1</sup>

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo’s, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will withdraw the Director's decision and remand the matter for entry of a new decision consistent with the following analysis.

## I. LAW

As relevant here, section 101(a)(15)(O)(i) of the Act establishes O-1 classification for an individual who has extraordinary ability in the sciences, arts, education, business, or athletics that has been demonstrated by sustained national or international acclaim, whose achievements have been recognized in the field through extensive documentation, and who seeks to enter the United States to continue work in the area of extraordinary ability. Department of Homeland Security (DHS) regulations define “extraordinary

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<sup>1</sup> Current policy guidance concerning the determination of whether the beneficiary is coming to work in the beneficiary’s “area of extraordinary ability” is located at 2 *USCIS Policy Manual* M.4(F), <https://www.uscis.gov/policymanual>; *see also* USCIS Policy Alert, PA-2022-03, *O-1 Nonimmigrant Status for Persons of Extraordinary Ability or Achievement* (Jan. 21, 2022), <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20220121-ExtraordinaryAbility.pdf>.

ability in the field of science, education, business, or athletics” as “a level of expertise indicating that the person is one of the small percentage who have arisen to the very top of the field of endeavor.” 8 C.F.R. § 214.2(o)(3)(ii).

Next, DHS regulations set forth alternative evidentiary criteria for establishing a beneficiary’s sustained acclaim and the recognition of achievements. A petitioner may submit evidence either of “a major, internationally recognized award, such as a Nobel Prize,” or of at least three of eight listed categories of documents. 8 C.F.R. § 214.2(o)(3)(iii)(A)-(B).

The submission of documents satisfying the initial evidentiary criteria does not, in and of itself, establish eligibility for O-1 classification. *See* 59 Fed. Reg. 41818, 41820 (Aug. 15, 1994) (“The evidence submitted by the petitioner is not the standard for the classification, but merely the mechanism to establish whether the standard has been met.”) Accordingly, where a petitioner provides qualifying evidence satisfying the initial evidentiary criteria, we will determine whether the totality of the record and the quality of the evidence shows sustained national or international acclaim such that the individual is among the small percentage at the very top of the field of endeavor. *See* section 101(a)(15)(o)(i) of the Act and 8 C.F.R. § 214.2(o)(3)(ii), (iii).<sup>2</sup>

## II. ANALYSIS

The Beneficiary, who is 33 years-old, indicated in her resume that she is a professional soccer player who has competed for soccer leagues in Spain, Turkey, and Colombia since 2013. She also provided that as a member of the Colombian women’s national soccer team she won a gold medal at the 2019 [REDACTED] and a silver medal at the 2015 [REDACTED]. Further, she indicated that she competed as a member of the Colombia women’s football squad in the 2012 and 2016 [REDACTED] and the 2011 and 2015 [REDACTED].

The Petitioner is a sports camp for children ages 7 to 12. According to pages 4 and 5 of the petition, the Petitioner seeks to hire the Beneficiary to work as a “Soccer Director.” The record includes an executed “Employee Contract,” that substantiates that the Beneficiary will receive an hourly wage of \$15 and that her duties will involve soccer coaching and directing the Petitioner’s soccer training programs and clinics. The Beneficiary’s occupation in which she intends to work in the United States is therefore as a soccer coach or trainer.

Accordingly, to establish her eligibility for the classification, the Beneficiary must provide sufficient evidence showing her extraordinary ability in soccer, either as an athlete or a coach, and, if as an athlete, that coaching or training is within her area of expertise. *See* section 101(a)(15)(o)(i) of the Act. The Petitioner has not asserted or documented either a major, internationally recognized award or that the Beneficiary satisfies three of the criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B)(1)-(8) as a coach. Based on the above, the sole issue on appeal is whether the Petitioner has shown the Beneficiary’s extraordinary ability as an athlete and whether athletic coaching or training is within her area of expertise.

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<sup>2</sup> *See also Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010), in which we held that, “truth is to be determined not by the quantity of evidence alone but by its quality.”

The Petitioner initially submitted evidence pertaining to four of the eight criteria, including evidence of awards the Beneficiary received as an athlete, membership, published materials, and original contributions. *See* 8 C.F.R. § 214.2(o)(3)(iii)(B)(1)-(3) and (5). In a request for evidence (RFE), the Director repeatedly emphasized that evidence relating to the Beneficiary's career as a competitive athlete was not relevant and would not be considered. For example, with respect to the initial evidence of the Beneficiary's prizes and awards as a soccer athlete, the RFE stated that the Beneficiary's "awards and recognitions w[ere] at the professional soccer player level and not that associated as a Director of Soccer or Coach."

Similarly, with respect to the published materials criterion, the Director indicated that the submitted "articles only speak about the beneficiary as an international soccer player and not i[n] the capacity of a coach or director. . ." Finally, the RFE addressed the Beneficiary's original contributions, noting that the submitted testimonials provide "details about the beneficiary's professional soccer success" but did not "show how the beneficiary's original contributions lead to a significant impact in the coaching related duties."

The record reflects that the Petitioner responded to the RFE by submitting additional evidence related to the Beneficiary's career as an athlete. Within its response, the Petitioner included a new claim that the Beneficiary's receipt of a gold medal for the Colombian women's national soccer team at the 2019 [redacted] qualifies as a major, internationally recognized award at 8 C.F.R. § 214.2(o)(3)(iii)(A). In denying the petition, the Director did not consider evidence related to the Beneficiary's athletic achievements as a competitor, published material about her achievements as a soccer athlete, or evidence of her original contributions as a soccer athlete in the field.

We find that the Director erred by excluding consideration of the Beneficiary's athletic achievements in determining whether the Petitioner provided evidence either of "a major, internationally recognized award, such as a Nobel Prize," or of at least three of the eight initial evidentiary criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B)(1)-(8).<sup>3</sup> The record shows that the Beneficiary intends to transition into coaching

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<sup>3</sup> As the Petitioner notes, when considering a petition for a beneficiary who is transitioning to a new occupation, such as "an acclaimed athlete coming to be a coach," the USCIS Policy Manual provides guidance for determining, as required, whether the proposed work in the United States is within the "area of extraordinary ability" as follows:

There is no statutory or regulatory definition of the term "field" or the phrase "area of extraordinary ability." For purposes of evaluating an O-1A [ ] beneficiary's extraordinary ability in the field, USCIS interprets the term "field" to allow consideration of acclaim and recognition for achievements in multiple related occupations (that is, those involving shared skillsets, knowledge, or expertise). Similarly, in the O-1A [ ] context, USCIS interprets the phrase "area of extraordinary ability" broadly to include not only the specific occupation(s) in which the beneficiary has garnered acclaim, but also other occupations that involve shared skillsets, knowledge, or expertise.

Accordingly, when determining whether the beneficiary is coming to work in the beneficiary's "area of extraordinary ability," officers focus on whether the prospective work or services involve skillsets, knowledge, or expertise shared with the occupation(s) in which the beneficiary has garnered acclaim. In evaluating whether occupations involve shared skillsets, knowledge, or expertise to an extent that they may be considered within the same area of extraordinary ability, officers evaluate the totality of information and evidence presented. Relevant factors include, but are not limited to:

from her career as a competitive athlete. The Director should have requested and considered additional evidence related to her athletic career to determine whether she satisfies either a major, internationally recognized award or at least three of the eight evidentiary criteria.

As a result of these errors, the RFE was deficient as it was not based on a complete review of the initial evidence and limited the Petitioner's response in that it indicated that evidence relating to the Beneficiary's career as a competitive athlete would not be considered. As the matter will be remanded, the Director should issue a new RFE after reviewing the evidence relating to the Beneficiary's career as an athlete.

As noted, the Director should request any additional evidence deemed warranted and should allow the Petitioner to submit additional evidence in support of its petition within a reasonable period of time. If the Director determines that the Petitioner satisfies the requirement either of a major, internationally recognized award or of at least three criteria, the decision should include an analysis of the totality of all the evidence in the record to determine whether the Beneficiary has sustained national or international acclaim and is one of the small percentage who have arisen to the very top of her field. *See* section 101(a)(15)(o)(i) of the Act; 8 C.F.R. § 214.2(o)(3)(ii).<sup>4</sup>

Further, if the Director concludes that the record establishes the Beneficiary's extraordinary ability as an athlete, the decision should examine if the record demonstrates that the Beneficiary is coming to the United States to continue work in the "area of extraordinary ability." *See* 101(a)(15)(O)(i) of the Act and 8 C.F.R. § 214.2(o)(1)(ii)(A)(1). Because the Beneficiary intends to work in the United States as a soccer coach or trainer, the decision should include an analysis of whether the record establishes that the beneficiary's area of extraordinary ability includes coaching.

**ORDER:** The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

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- Whether the past and prospective occupations are in the same industry or are otherwise related based on shared duties or expertise;
  - Whether the prospective occupation is a supervisory, management, or other leadership position that oversees the beneficiary's previous position or otherwise requires shared knowledge, skills, or expertise; and
  - Whether it is common for persons in one occupation to transition to the other occupation(s) based upon their experience and knowledge.

*See* 2 USCIS Policy Manual, *supra*, at M.4(F); *see also* USCIS Policy Alert, PA-2022-03, *O-1 Nonimmigrant Status for Persons of Extraordinary Ability or Achievement* (Jan. 21, 2022), <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20220121-ExtraordinaryAbility.pdf>.

<sup>4</sup> *See also* 2 USCIS Policy Manual, *supra*, at M.4(B).