



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

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

In Re: 23997290

Date: JAN. 20, 2023

Appeal of California Service Center Decision

Form I-129, Petition for a Nonimmigrant Worker (Athlete, Artist, or Entertainer – P)

The Petitioner, an athlete agent, seeks to continue to represent the Beneficiary during his temporary employment in the United States as a track and road runner. To do so, the Petitioner seeks to extend his classification 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-1 classification makes nonimmigrant visas available to certain high performing athletes and coaches. Sections 204(i)(2) and 214(c)(4)(A) of the Act, 8 U.S.C. §§ 1154(i)(2), 1184(c)(4)(A).

The Director of the California Service Center denied the petition on two grounds. First, the Director concluded that the Petitioner did not submit sufficient evidence concerning the specific athletic competitions in which the Beneficiary intended to participate in the United States. *See* 8 C.F.R. § 214.2(p)(2)(ii)(C). In addition, the Director found that the Petitioner did not establish that the Beneficiary would enter the United States temporarily and solely for the purpose of performing as such an athlete with respect to a specific athletic competition. *See* section 214(c)(4)(A)(ii)(I) of the Act; *see also* 8 C.F.R. § 214.2(p)(1)(ii)(A)(1).¹ The matter is now before us on appeal.

In these proceedings, it is the Petitioner's burden to establish, by a preponderance of the evidence, its eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012); *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Upon *de novo* review, we will dismiss the appeal.

I. LAW

Under Sections 101(a)(15)(P)(i) and 214(c)(4)(A)(i)(I) of the Act, a noncitizen 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 as an athlete, individually or as part of a group or team, at an internationally recognized level of performance. *See also* 8 C.F.R. § 214.2(p)(1)(ii)(A)(I). The regulation requires a petitioner to submit, among other evidence, “[a]n explanation of the nature of the events or activities, the beginning and ending dates for the events or activities, and a copy of any itinerary for the events or activities.” 8 C.F.R. § 214.2(p)(2)(ii)(C). Further, the regulation indicates

¹ The Director's decision ultimately found those issues to be dispositive and did not address whether the Petitioner has established that the Beneficiary qualifies as internationally recognized athlete by satisfying at least two of the seven evidentiary criteria listed under 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(i)-(vii).

that a person in business as an agent may file the P petition as the representative of both the beneficiary and multiple employers if the supporting documentation includes a complete itinerary of services or engagements. 8 C.F.R. § 214.2(p)(2)(iv)(E)(2).

Section 214(c)(4)(A)(ii)(I) of the Act specifies that a petitioner seeking to classify a noncitizen as an internationally recognized athlete must show that the noncitizen is entering the United States temporarily and solely for the purpose of performing “as such an athlete with respect to a specific athletic competition.” *See also* 8 C.F.R. § 214.2(p)(1)(ii)(A)(I) (stating a P-1 classification applies to a noncitizen who is coming to the United States temporarily “[t]o perform at specific athletic competition 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. 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.

II. ANALYSIS

Page 26 of the O and P Classifications Supplement to Form I-129 indicates that the Petitioner seeks to hire the Beneficiary to “participat[e] in track and field competitions.” Based on a review of the evidence, we conclude that the Petitioner has not established its eligibility to classify the Beneficiary as an internationally recognized athlete.

A. Itinerary

As noted, 8 C.F.R. § 214.2(p)(2)(ii)(C) requires the Petitioner to submit “[a]n explanation of the nature of the events or activities, the beginning and ending dates for the events or activities, and a copy of any itinerary for the events or activities.” As mentioned, the regulation at 8 C.F.R. § 214.2(p)(2)(iv)(E)(2) specifies that a person in business as an agent may file the P petition as the representative of both the beneficiary and multiple employers if the supporting documentation includes a complete itinerary of services or engagements. We may take into account the industry when considering if the form and specificity is sufficient. The Petitioner submitted the Beneficiary’s race itinerary for 2022, and similar projected itineraries for 2023 and through 2026.

Here, the Petitioner has provided the dates and locations of running races in which the Petitioner intends to enter the Beneficiary in 2022, including the [redacted] Marathon, [redacted] 10K, [redacted] Marathon, [redacted] Half Marathon, [redacted] Marathon, [redacted] Race, [redacted] Marathon, and [redacted] Marathon Philadelphia. The Petitioner indicated that the schedule for the following years would be substantially the same and explained why it would not be feasible to provide the exact date or specific address for the races in advance. A review of the record supports the Petitioner’s

contention that the dates and locations of the specified events are substantially similar from year to year. Therefore, we conclude that, based on the totality of the evidence submitted, the Petitioner has met its evidentiary burden with respect to the Beneficiary's itinerary for the requested period of employment. Accordingly, we withdraw the decision of the Director with respect to this issue.

B. Solely to Perform as an Athlete

The Petitioner has not sufficiently shown that the Beneficiary may be classified as a P-1A internationally recognized athlete, because it has not demonstrated that the Beneficiary is coming to the United States temporarily and "solely for the purpose of performing . . . as such an athlete with respect to a specific athletic competition," as required under Section 214(c)(4)(A)(ii) of the Act. *See also* 8 C.F.R. § 214.2(p)(1)(ii)(A)(1), (3) (defining "competition, event, or performance"). The Petitioner's initial letter in support of the petition indicated that "[i]n addition to racing events, our company negotiates for manufacturer endorsement contracts, speaking engagements, and other non-competitive, revenue producing activities associated with the competitive events." Page 5 of the petition states that the Beneficiary will not receive wages but will receive other compensation consisting of "competition awards, appearance fees and sponsorship funds." According to the athlete-representative agreement, the Beneficiary agrees to pay the Petitioner, *inter alia*, a "percent of gross amounts paid for sponsorship or endorsement contracts with show, apparel and/or sporting goods companies."

Here, the Petitioner has not established that all of the Beneficiary's intended duties are permissible according to the Act and relevant regulation. As mentioned, while "short vacations, promotional appearances for [the Petitioner] relating to the competition [or] event . . . which are incidental and/or related to" a specific athletic competition, are permissible, general promotional duties that are not incidental and/or related to a specific athletic competition are not similarly permissible. Section 214(c)(4)(A)(ii) of the Act; *see also* 8 C.F.R. § 214.2(p)(1)(ii)(A)(1), (3). As some of the Beneficiary's intended duties, such as sponsorship and endorsement contracts, appear to be activities that promote apparel or sporting goods companies, which are not incidental or related to a specific competition, the Petitioner has not sufficiently shown that the Beneficiary may be classified as a P-1A internationally recognized athlete.

III. CONCLUSION

The Petitioner has not demonstrated its eligibility to classify the Beneficiary as an internationally recognized athlete because it has not shown that the Beneficiary is entering the United States solely for the purpose of performing as an internationally recognized athlete with respect to specific athletic competition.

ORDER: The appeal is dismissed.