U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 27521074

Date: JUL. 07, 2023

Appeal of California Service Center Decision

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

The Petitioner, a boxing promotions company, 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-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, concluding the Petitioner did not establish that the Beneficiary intended to enter the United States solely to perform in athletic competitions that have a distinguished reputation and that require participation of an athlete who has an international reputation. *See* Section 214(c)(4)(A)(i)(I), (ii)(I) of the Act; 8 C.F.R. § 214.2(p)(4)(i)(A), (ii)(A).[1] The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner initiated the instant appeal in March 2023 by filing a Notice of Appeal or Motion, Form I-290B, in which it maintains that it has established eligibility to classify the Beneficiary as an internationally recognized athlete. It also noted on page 2 of the form that it "will submit [its] brief and/or additional evidence to the AAO [Administrative Appeals Office] within 30 calendar days of the filing of the appeal." To date, the Petitioner has not presented either a brief or additional documentation in support of the appeal.

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 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

[1] The Director's decision ultimately found those issues to be dispositive and did not address whether the Petitioner has submitted sufficient documentary evidence satisfying at least two of the seven evidentiary criteria listed under 8 C.F.R. § 214.2(p)(4)(ii)(B)(*2*)(i)-(vii).

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)(*1*). Section 214(c)(4)(A)(ii)(I) of the Act specifies that the noncitizen must be entering the United States temporarily and solely for the purpose of performing "as such an athlete with respect to a specific athletic competition."

In addition, the regulation at 8 C.F.R. § 214.2(p)(4)(i)(A) states:

> *P-1[A] classification as an athlete in an individual capacity.* A P-1[A] 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.

The regulation at 8 C.F.R. § 214.2(p)(3) provides the following relevant definition:

> 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.

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

> *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.

Moreover, the U.S. Citizenship and Immigration Services Policy Manual specifies:

> Relevant considerations for determining whether competitions are at an internationally recognized level of performance such that they require the participation of an internationally recognized athlete or team include, but are not limited to:
>
> - The level of viewership, attendance, revenue, and major media coverage of the events;
> - The extent of past participation by internationally recognized athletes or teams;
> - The international ranking of athletes competing; or
> - Documented merits requirements for participants.

> If the record shows the participation of internationally recognized caliber competitors is currently unusual or uncommon, this may indicate that the event may not currently be at an internationally recognized level of performance. In addition, while not necessarily determinative, the fact that a competition is open to competitors at all skill levels may be a relevant negative factor in analyzing whether it is at an internationally recognized level of performance. If the event includes differentiated categories of competition based on skill level, the focus should be on the reputation and level of recognition of the specific category of competition in which the athlete or team seeks to participate.

2 *USCIS Policy Manual* N.2(A)(1), https://www.uscis.gov/policy-manual/volume-2-part-n-chapter-2; *see also* USCIS Policy Alert PA-2021-04, *Additional Guidance Relating to P-1A Internationally Recognized Athletes* 1-2 (Mar. 26, 2021), https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20210326-Athletes.pdf.

II. ANALYSIS

A. Introduction

The petition indicates that the Petitioner is a business specializing in boxing promotions. According to pages 4 of the petition, it seeks to employ the Beneficiary to work as a "Professional Athlete."[2] On the O and P Classifications Supplement to Form I-129, the Petitioner indicates the Beneficiary will compete in "Professional boxing fights . . . . against some of the best ranked boxers in the feather division, intending to dispute an international title for the next sanctioning bodies WBC, WBA, WBO, and IBF."

The record shows that the Beneficiary is a 23-year-old super featherweight boxer who has been competing professionally in Mexico since 2016, with a record at the time of filing of 20 wins and 1 loss. The Director concluded that the Petitioner did not establish that the Beneficiary qualified as an internationally recognized athlete. On appeal, the Petitioner claims it has demonstrated eligibility to classify the Beneficiary as a P-1A nonimmigrant.

B. Internationally Recognized Athlete

As discussed, to classify the Beneficiary as a P-1A internationally recognized athlete, the Petitioner must show that he intends to enter the United States solely to perform in athletic competitions that have a distinguished reputation and that require participation of an athlete who has an international reputation. *See* Section 214(c)(4)(A)(i)(I), (ii)(I) of the Act; 8 C.F.R. § 214.2(p)(4)(i)(A), (ii)(A). The Petitioner has not made such a showing.

The Petitioner's initial evidence included an "Exclusive Boxing Promotional Agreement" dated September 2022, executed by the Petitioner, the Beneficiary, and his manager, granting the Petitioner

[2] Although the Petitioner refers to the Beneficiary as a "professional athlete," it has neither articulated a claim nor presented evidence that he qualifies as a professional athlete as that term is defined in section 204(i)(2) of the Act. *See also* sections 101(a)(15)(p)(i)(a) and 214(c)(4)(A)(i)(II) 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 exclusive right to promote the Beneficiary's future bouts as a professional boxer for a five-year term. The Petitioner also provided an excerpt from a California State Athletic Commission bout contract that substantiates that the Beneficiary will compete against [redacted] in a 10-round boxing match at the [redacted] California in [redacted] 2022 and will receive a wage of $8,500.

The Petitioner asserted that its boxing events "have been promoted on HBO Championship Boxing, Showtime Boxing, ESPN, Telemundo, UniMas, and all of the major television networks in the United States of America." It also provided that it "has an exclusive broadcast deal with giant Internet stream provider DAZN which showcases all of [boxer] [redacted] world title matches."

The Director issued a request for further evidence (RFE) to establish that the Beneficiary "will be competing at an internationally recognized level, in competitions or leagues with a distinguished reputation and that require, among its participants, an internationally recognized athlete." In response, the Petitioner provided that the Beneficiary's bout against [redacted] rescheduled as "the main event of our upcoming show on [redacted] 2023," will be "for the World Boxing Association's (WBA) [redacted] title, which will secure [the Beneficiary] a world-ranking position among the top-15 boxers in the weight division in which he competes." The Petitioner also indicated that the Beneficiary would participate in the main event at the [redacted] California on [redacted] 2023.

The Director determined that the Petitioner's RFE response "did not offer any supporting evidence to demonstrate how the beneficiary's upcoming bouts have a distinguished reputation and require participation of an athlete that has an international reputation." Therefore, the Director concluded that the Petitioner did not establish that the planned events require the services of an athlete who is "internationally recognized," as that term is defined in the regulations. 8 C.F.R. § 214.2(p)(3).

We acknowledge the Petitioner's argument on appeal that it has shown the "major media coverage" of the Beneficiary's proposed competitions, in maintaining that they "will be broadcasting in ESPN, showtime boxing, and DAZN, the biggest sport streamers, [with] which [it has] broadcasting agreements." However, although the Petitioner has asserted that it "has an exclusive broadcast deal with giant Internet stream provider DAZN," and that its events "have been promoted on HBO Championship Boxing, Showtime Boxing, ESPN, Telemundo, UniMas, and all of the major television networks in the United States of America," the Petitioner has not established the claimed facts with unsupported testimonial evidence alone. It has not provided, for example, corroborating evidence of any of its deals with those broadcasters for coverage of its past events, or that the Beneficiary's proposed bouts will receive major media coverage, as asserted.

In addition, we note the Petitioner's further assertion on appeal that it has demonstrated "[t]he international ranking of athletes competing; or [d]ocumented merits requirements for participants" in its proposed events. In support, it claims to have "sent evidence about [the Beneficiary's] opponent on the competition, who was [redacted] who holds the international title [redacted] by the World Boxing Association (WBA), one of the top fighters on his weight on the world." However, the record before us does not contain any documentation relating to [redacted] including his international ranking. Nor has the Petitioner submitted evidence of the merits requirements of the Beneficiary's proposed boxing bouts indicating that there is a skill level required

for participation in those competitive events. Again, the Petitioner has not established those claimed facts with unsupported testimonial evidence alone. The record does not contain supporting evidence to help establish whether the proposed competitions are at an internationally recognized level of performance such that they require the participation of an internationally recognized athlete.

In sum, the record does not sufficiently support the Petitioner's contention that the relevant planned events require participation of an athlete with an international reputation. The Petitioner has not presented evidence relating to "[t]he level of viewership, attendance, revenue, and major media coverage of the [Beneficiary's intended events]"; "[t]he extent of past participation by internationally recognized athletes" in the events; "[t]he international ranking of athletes competing;" or "[d]ocumented merits requirements for participants." *See generally* 2 *USCIS Policy Manual*, *supra*, at N.2(A)(1); *see also* USCIS Policy Alert PA-2021-04, *supra*, at 1-2. Without additional corroboration, the Petitioner has not established that the Beneficiary maybe be classified as a P-1A internationally recognized athlete under Section 214(c)(4)(A)(i)(I) of the Act.

III. CONCLUSION

The Petitioner has not demonstrated its eligibility to classify the Beneficiary as a P-1A internationally recognized athlete, because it has not established that the Beneficiary is entering the United States temporarily and solely to compete in qualifying competitions. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.