U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 21764954

Date: AUG. 30, 2022

Appeal of California Service Center Decision

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

The Petitioner, a soccer club, seeks to classify the Beneficiary as a head professional soccer coach for extraordinary ability classification. To do so, the Petitioner seeks O-1 nonimmigrant status, 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).

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

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 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).[1]

II. ANALYSIS

Because the Petitioner did not indicate or establish that the Beneficiary has received a major, internationally recognized award, it must demonstrate that the Beneficiary satisfies at least three of the alternate regulatory criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*1*)-(*8*). The Director determined that the Beneficiary fulfilled only one criterion, judging at 8 C.F.R. § 214.2(o)(3)(B)(iii)(*4*). On appeal, the Petitioner argues that the Beneficiary meets two additional criteria. After reviewing all of the submitted evidence, the record does not reflect that the Beneficiary meets the requirements of at least three criteria.

> *Documentation of the alien's receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor.* 8 C.F.R. § 214.2(o)(3)(iii)(B)(*1*)

On appeal, the Petitioner argues that Beneficiary meets this criterion through the Beneficiary's "coaching in U.S. Youth Futsal organization's National Championships with several [redacted] Futsal teams." The Petitioner references two letters from [redacted] founder and executive director of [redacted] Futsal, who indicated that the Beneficiary "led the two teams attending the championship as Head Coach" and highlighted that [redacted] Futsal was the first to attend a regional let alone national US Youth Futsal Championship."

The regulation at 8 C.F.R. § 214.2(o)(3)(iii)(B)(1) requires "the alien's receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor."[2] Here, the Petitioner did not demonstrate that the Beneficiary received any prizes or awards from his two teams competing at the U.S. Youth Futsal Championship. Although the Petitioner also referenced background material regarding the championship, the documentation does not show that participating or attending the event results in prizes or awards, let alone nationally or internationally recognized prizes or awards for excellence. Here, the Petitioner has not identified the prizes or awards received by the Beneficiary at the futsal championship.

Moreover, the Petitioner contends that the Beneficiary has "coached a youth player who went on to compete in the international soccer World Cup Youth." The Petitioner references a letter from [redacted] indicating that the Beneficiary coached his daughter, who "participate[d] in the 2018 [redacted] Cup – the World Youth Cup – in Sweden representing [redacted] as part of the [redacted] National Team."

[1] *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."
[2] *See also* 2 *USCIS Policy Manual*, M.4(C)(2), https://www.uscis.gov/policymanaul.

Again, this regulatory criterion requires the Beneficiary to receive nationally or internationally recognized prizes or awards for excellence in the field. In this case, the Petitioner did not establish how coaching an athlete who later competed at a soccer championship equates to the Beneficiary receiving a prize or award. While the Petitioner provided background information relating to the [redacted] Cup, the evidence does not indicate any prizes or awards received by the Beneficiary.

Finally, the Petitioner references our 2009 non-precedent decision concerning a tennis coach. This decision was not published as a precedent and therefore does not bind USCIS officers in future adjudications. *See* 8 C.F.R. § 103.3(c). Non-precedent decisions apply existing law and policy to the specific facts of the individual case, and may be distinguishable based on the evidence in the record of proceedings, the issues considered, and applicable law and policy. Although the Petitioner claims that the "Beneficiary had been instrumental in championships obtained with his players, thereby having the equivalence of obtaining such national awards," the Petitioner has not identified any championships obtained by his students. Regardless, the Petitioner has not shown that the Beneficiary's "receipt" of prizes or awards, consistent with this regulatory criterion.

For the reasons discussed above, the Petitioner did not establish that the Beneficiary meets this criterion.

III. CONCLUSION

The Petitioner did not demonstrate that the Beneficiary met the awards criterion. Although the Petitioner also claims the Beneficiary's eligibility regarding critical or essential capacity at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*7*), we need not address this ground because he cannot fulfill the initial evidentiary requirement of at least three criteria under 8 C.F.R. § 214.2(o)(3)(iii)(B). We also need not provide a totality determination to establish whether the Beneficiary has sustained national or international acclaim and is one of the small percentage who has arisen to the very top of the field. *See* section 101(a)(15)(O)(i) of the Act and 8 C.F.R. § 214.2(o)(3)(ii) and (iii).[3] Accordingly, we reserve these issues.[4] Consequently, the Petitioner has not established the Beneficiary's eligibility for the O-1 visa classification as an individual of extraordinary ability. 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.

[3] *See also* 2 *USCIS Policy Manual*, *supra*, at M.4(B).

[4] *See INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach); *see also Matter of L-A-C-*, 26 I&N Dec. 516, n.7 (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).