U.S. Citizenship and Immigration Services

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

MATTER OF E-P-, LLC

DATE: FEB. 6, 2018

APPEAL OF VERMONT SERVICE CENTER DECISION

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

The Petitioner, a mental training technique company, seeks to temporarily employ the Beneficiary as a life coach. To do so, the Petitioner seeks to classify the Beneficiary as an O-1 nonimmigrant of extraordinary ability in the sciences.[1] This classification is available to foreign nationals 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 Vermont Service Center denied the petition, concluding that the Petitioner did not satisfy, as required, the evidentiary criteria applicable to individuals of extraordinary ability, either 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).

On appeal, the Petitioner asserts that the Beneficiary meets the regulatory requirements for O-1 classification.

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 to work in the area of extraordinary ability. Department of Homeland Security (DHS) regulations define "[e]xtraordinary 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).

[1] The Petitioner stated in his initial cover letter that "[l]ife coaching is a field of endeavor in the sciences, more specifically under a field unique to psychology."

Next, DHS regulations set forth the evidentiary criteria for establishing a beneficiary's sustained acclaim and the recognition of achievements. 8 C.F.R. § 214.2(o)(3)(iii). First, a petitioner can demonstrate a beneficiary's sustained acclaim and the recognition of the individual's achievements in the field through evidence of a major, internationally recognized award, such as the Nobel Prize. 8 C.F.R. § 214.2(o)(3)(iii)(A). If the petitioner does not submit this evidence, then it must submit sufficient qualifying evidence that meets at least three of the eight categories of evidence listed at 8 C.F.R. § 214.2(o)(3)(iii)(B)(1)-(8). If the petitioner demonstrates that the criteria in paragraph (o)(3)(iii) of this section do not readily apply to the beneficiary's occupation, it may submit comparable evidence in order to establish the individual's eligibility. 8 C.F.R. § 214.2(o)(iii)(C).

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). In *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010), we held that, "truth is to be determined not by the quantity of evidence alone but by its quality." That decision explains that, pursuant to the preponderance of the evidence standard, we "must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true." *Id.* Accordingly, where a petitioner provides qualifying evidence satisfying the initial evidentiary criteria, we will determine whether the totality of the record shows eligibility under section 101(a)(15)(o)(i) of the Act and 8 C.F.R. § 214.2(o)(1)(ii).

## II. ANALYSIS

The Director determined that the Beneficiary had not received a major, internationally recognized award at 8 C.F.R. § 214.2(o)(1)(iii)(A) or satisfied any of the criteria described at 8 C.F.R § 214.2(o)(3)(iii)(B). On appeal, the Petitioner maintains that it has provided comparable evidence of a major, internationally recognized award and, alternately, that the Beneficiary meets three criteria.[2] As discussed below, we find that the exhibits do not satisfy any of the evidentiary categories described at 8 C.F.R. § 214.2(o)(3)(iii)(A)-(C).

### A. Major, Internationally Recognized Award

The regulation at 214.2(o)(3)(iii)(A) requires a beneficiary's "receipt of a major, internationally recognized award, such as the Nobel Prize." Other examples that enjoy major, international recognition may include the Pulitzer Prize, the Academy Award, and an Olympic Medal. These major, internationally recognized awards are generally reported in the top media internationally regardless of the nationality of the awardees, reflect a familiar name to the public at large, or include a significant cash prize. While a major, internationally recognized award could conceivably not

[2] While the Petitioner previously claimed the Beneficiary's eligibility for published material under 8 C.F.R § 214.2(o)(3)(iii)(B)(*3*), it does not continue to do so on appeal, nor does the record support a finding that he meets it. Accordingly, we will not further address this criterion in our decision.

contain those elements, the award must be global in scope and internationally recognized in the field as one of the top awards.

The Petitioner does not indicate that the Beneficiary received a major, internationally recognized award. Instead, the Petitioner argues that it provided recommendation letters showing that the Beneficiary "coached athletes who won [redacted] Gold Medals" as comparable evidence and references the major, internationally recognized award requirement. Specifically, the Petitioner asserts that "the testimonials of the world class athletes who have attributed their success and championships directly to [the Beneficiary's] life coaching techniques should be considered as comparable evidence."

The regulation at 8 C.F.R. 214.2(o)(3)(iii)(C) provides that [i]f the criteria in paragraph (o)(3)(iii) of this section do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence in order to establish the beneficiary's eligibility." Thus, a petitioner must demonstrate why the regulatory criterion does not pertain to a beneficiary's occupation and how the evidence submitted is "comparable" to the objective evidence required at 8 C.F.R. § 214.2(o)(3)(iii). Here, the Petitioner claims that "the athlete (or other professional) receiving the life changing coaching techniques from the life coach is the one to receive the prize or award and not the life coach." The Petitioner, however, did not support his assertions with documentation. Furthermore, the Petitioner did not establish that life coaches are unable to receive a major, internationally recognized award, such as a Nobel Prize. The fact that the Beneficiary did not receive such an award is not evidence that the criterion does not apply to his occupation.

Moreover, the Petitioner did not demonstrate that the statements in the Beneficiary's testimonial letters are equivalent to receiving a major, recognized award. Specifically, the Petitioner references testimonial letters from three track and field athletes – [redacted] and [redacted] – who praised the mental training technique called [redacted] (EP) and generally thanked the Beneficiary for teaching it to them. For instance, [redacted] claimed that the Beneficiary "really helped [him] because [he] no longer [has] to do a long warm up before running, which decreases the risk of injuries," and "ended up being a Gold medalist during the last [redacted]." In addition, [redacted] indicated that the Beneficiary "help[ed] [him] discover a new way of training and to safely reach new heights in [his] athletic discipline" and "[has] been really amazing because of the human and technical way [the Beneficiary] worked him me." Further, [redacted] "recommend[ed] [EP] as a unique mental training method for high level athletes who want to surpass themselves in an incredibly short time" and thanked the Beneficiary "because [she] couldn't have achieved all this without him."

The letters, however, mostly discuss how they believed EP impacted their personal performances. While the athletes thanked and acknowledged the Beneficiary, they did not demonstrate the extent, if any, the Beneficiary played in ultimately achieving their awards or finishes beyond him introducing them to the EP mental training technique. In fact, the Petitioner states that "some of these athletes were already nationally and[/]or internationally recognized athletes prior to the beneficiary's training." Accordingly, the Petitioner did not establish that the successes of the track and field

athletes can be attributed to the Beneficiary, and the testimonials do not reflect the same caliber of expertise and recognition as garnering a major, internationally recognized award.

B. Evidentiary 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*).

The Petitioner does not specifically claim eligibility for this criterion. However, in his arguments regarding testimonial letters as comparable evidence to a major, internationally recognized award, the Petitioner makes a reference that life coaches do not receive nationally or internationally recognized prizes or awards for excellence in the field. For the same reasons discussed above, the Petitioner did not support his claim with documentation demonstrating that nationally or internationally recognized awards do not apply to life coaches. In addition, the Petitioner did not establish that the athletes received awards based on the Beneficiary's life coaching. Accordingly, the Petitioner did not show how the testimonial letters are comparable evidence to the Beneficiary meeting this criterion.

> *Evidence of the alien's original scientific, scholarly, or business-related contributions of major significance in the field.* 8 C.F.R. § 214.2(o)(3)(iii)(B)(*5*).

In order to satisfy this criterion, a petitioner must establish that not only has the Beneficiary made original contributions but that they have been of major significance in the field. For example, a petitioner may support the record with evidence that a beneficiary's contributions have been widely implemented, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field.

The Petitioner contends that EP "is a unique and original contribution of [the Beneficiary], and that he developed it in conjunction with his partner." In addition, the Petitioner references the second of two recommendation letters from who identifies himself as "a Swiss doctor specialized [sic] in psychiatry and psychotherapy," asserting that the Beneficiary "developed" EP, and "[t]he techniques are unique to [the Beneficiary] and they are unique in the field of coaching." However, did not indicate in his initial letter that the Beneficiary created or developed EP. In fact, did not even mention the Beneficiary; instead, he discussed his opinion regarding EP. further claimed that he did not mention the Beneficiary as the creator of EP in his first letter because he "presumed the reader would be provided with the legal documents of the corporation." The record does not contain any "legal documents," such as trademark or patent documentation, reflecting the Beneficiary as the inventor of EP.

Furthermore, the Petitioner submitted an unsigned letter from ' who indicated that he "wish[ed] to remain anonymous for reasons of domestic tranquility." ' claimed to have "innovated and invented unique physical and mental techniques in the world for better being, communication, and performances improvement, applicable in every human being and in all fields."

Further, " " stated that he selected the Beneficiary "to practice safely the [EP] techniques at a high level" Thus, ' statement that he invented EP contradicts the assertions of the Petitioner and that the Beneficiary created it.

Moreover, the Petitioner provided a document entitled, ' ' by who stated that he "explained that the capacities of the techniques he created as [EP], and the knowledge he taught to a few students," including the Beneficiary. credits as creating EP, and the Beneficiary as "performing" it. The document does not support the Petitioner's claim that the Beneficiary developed EP. For these reasons, the Petitioner has not established that EP is an original contribution of the Beneficiary.

The Petitioner also indicates that it submitted other testimonial letters "attesting to the wide-spread commentary on the pioneering, groundbreaking and revolutionary techniques that [EP] has brought to life coaching in arts, sports, and business." The letters reflect praise regarding EP but do not show how the Beneficiary has made original contributions of major significance in the field. For example, the letters do not indicate that the Beneficiary has significantly influenced or impacted the field of mental training. Further, the Petitioner did not show how teaching EP to selected individuals in arts, sports, and business reflects original contributions of major significance to his overall field. In addition, as discussed above, the letters do not provide specific information establishing that the Beneficiary's application of EP to the individuals contributed to their personal achievements. Accordingly, the Petitioner did not demonstrate that the Beneficiary satisfies this criterion.

> *Evidence that the alien has either commanded a high salary or will command a high salary or other remuneration for services, evidenced by contracts or other reliable evidence*. 8 C.F.R. § 214.2(o)(3)(iii)(B)(*8*).

The record contains a three-year contract reflecting that the Petitioner agrees to pay the Beneficiary a $150,000 base salary. The Petitioner argues that he provided three testimonial letters from and attesting to the Beneficiary's high compensation.

The record includes two letters from each of the above individuals. We note that the second set of letters, provided in response to the Director's request for evidence, are unsigned and therefore have diminished credibility and evidentiary value. Notwithstanding, stated that he is an international athletic trainer, and he collaborated with the Beneficiary that helped him rebuild a new way of training his clients. In his subsequent letter, indicated that he was recently hired by the and he is "paid a high salary compared to those in [his] field."

Further, claimed that she worked at various jobs before she met the Beneficiary and now works "as a counselor for one of the most powerful man [sic] of a European country." In her second letter, asserted that she is currently a Life Coach," she is "one of the highest paid life coaches in France," and the Beneficiary "makes a greater salary that [sic] me and is one of the highest paid life coaches in Europe."

Finally, [redacted] states that she has conducted research on the impact of odors on human behavior and owns two main brands, [redacted] and [redacted] also indicated that she benefited from the experience of taking coaching sessions with the Beneficiary. In her second letter, [redacted] then claimed that she is a "Life Coach," and "[t]here is no fixed fee for a life coach but it averages about 1000 $ per hour in France" and that she "make[s] 2500 $ to 3000 $ per hour minimum, which is three times the average life coach salary."

The letters, however, do not contain specific information showing that the Beneficiary "either commanded a high salary or will command a high salary or other high remuneration for services." For example, while [redacted] claimed that he receives a high salary as an athletic trainer, he does not explain how his salary in a different occupation shows that the Beneficiary commands a high salary as a life coach. Moreover, even though [redacted] asserted that she is one of the highest paid life coaches in France and that the Beneficiary makes more, she does not indicate how much she earns, what the salaries of life coaches are in France, and where she obtained her information to make her conclusions. Similarly, although [redacted] asserted the average hourly fees for life coaches in France versus her hourly wages, she did not provide the source information that supported her statements. Without corroborated, reliable evidence, such as statistical documentation reflecting the salaries of life coaches, the Petitioner did not demonstrate that the Beneficiary has commanded or will command a high salary.

## III. CONCLUSION

The record does not establish that the Beneficiary has received a major, internationally recognized award under 8 C.F.R. § 214.2(o)(3)(iii)(A) or that he meets at least three of the eight evidentiary criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B), nor does it meet the requirements of the comparable evidence provision at 8 C.F.R. § 214.2(o)(iii)(C). Consequently, the Petitioner has not established that the Beneficiary is eligible for the O-1 visa classification as an individual of extraordinary ability.

**ORDER:** The appeal is dismissed.

Cite as *Matter of E-P-, Inc.*, ID# 72988 (AAO Feb. 6, 2018)