U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 37199313

Date: FEB. 25, 2025

Appeal of California Service Center Decision

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

The Petitioner, a youth soccer club, seeks to classify the Beneficiary as a goalkeeper program director of extraordinary ability. This O-1 nonimmigrant visa classification is available to individuals with 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 because: 1) the Petitioner did not meet the consultation requirement, and 2) the Petitioner did not show the Beneficiary satisfied at least three of eight possible forms of documentation. The matter is now before us on appeal. 8 C.F.R. § 103.3.

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

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). If the petitioner demonstrates a criterion

does not readily apply to the beneficiary's occupation, it may submit comparable evidence to establish eligibility. 8 C.F.R. § 214.2(o)(3)(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) ("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 the Beneficiary has received a major, internationally recognized award, it must demonstrate 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 the Beneficiary fulfilled only one (critical or essential capacity under 8 C.F.R. § 214.2(o)(3)(B)(iii)(*7*)) of the six claimed categories. On appeal, the Petitioner maintains the Beneficiary meets five additional criteria.[2]

At the outset, the Petitioner submits new evidence and makes new claims on appeal. Because the Petitioner was put on notice and given a reasonable opportunity to provide this evidence and make these claims, we will not consider them for the first time on appeal. *See* 8 C.F.R. § 103.2(b)(11) (requiring all requested evidence be submitted together at one time); *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988) (declining to consider new evidence submitted on appeal because "the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it for the record before the denial"). Generally, appellate bodies will not decide issues in the first instance or consider claims raised for the first time in an appeal. *Nat'l Rifle Ass'n of Am. v. Vullo*, 602 U.S. 175, 195 n. 5 (May 30, 2024).

A. Awards

The regulation at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*1*) requires "[d]ocumentation of the alien's receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor." USCIS determines whether the award is a lesser nationally or internationally recognized prize or award which the beneficiary received for excellence in the field of endeavor.[3] This criterion does not require an award or prize to have the same level of recognition and prestige associated with the Nobel Prize or another award that would qualify as a one-time achievement, nor does it require an award or prize to be received at an advanced stage of the beneficiary's career.[4]

---

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

[2] Any ground of eligibility that is not raised on appeal is waived. *See Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (*citing Matter of R-A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012)).

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

[4] *Id.*

At initial filing, the Petitioner's cover letter did not specifically claim the Beneficiary's eligibility for this criterion. However, the Petitioner submitted screenshots from globo.com reporting that "the Brazilian women's team won the [redacted] Argentina." In addition, the Petitioner offered a photograph purportedly of the Beneficiary holding a trophy. In response to the Director's request for evidence (RFE), the Petitioner stated:

> The picture in which the beneficiary is holding a trophy is for the tournament his team won. The tournament [the Beneficiary's] team competed in was the 2018 [redacted] Officially the [redacted] is an international women's association football competition held every two years for South American under-17 women teams and serves as a qualification tournament for the FIFA U-17 Woman's World Cup.
>
> . . . .
>
> The teams that advance to the final stage are selected in two stages. In the first stage, the teams are ranked according to points (3 points for a win, 1 point for a draw, 0 points for a loss) if tied on points, tiebreakers are applied in a certain order (see enclosed Wikipedia listing criteria). The top two teams of each group advance to the final stage.
>
> In the final stage, the teams are ranked according to points (3 points for a win, 1 point for a draw, 0 points for a loss). If tied on points, tiebreakers are applied in a certain order (see enclosed Wikipedia listing criteria) considering only matches in the final stage.
>
> This award was awarded to [the Beneficiary's] team for excellence in the field due to his extraordinary coaching ability.

As indicated above, the Petitioner submitted screenshots from Wikipedia regarding the [redacted]

Here, the Petitioner has not shown that the [redacted] qualifies as a lesser nationally or internationally recognized award for excellence in the field.[5] Although the screenshots from globo.com announce the team's victory and the screenshots from Wikipedia reflect background material about the tournament, including stage scoring, squad requirements, venues, and draws, the Petitioner did not establish how the documentation reflects the national or international recognition for excellence in the field of the award. The Petitioner, for instance, did not demonstrate the field's view of the [redacted] as a nationally or internationally recognized award for excellence. While the evidence indicates that the championship serves as a qualification tournament for the FIFA U-17 Woman's World Cup, none of the screenshots discuss the significance or relevance of the championship in the overall soccer (football) field.

[5] As indicated above, we will not consider new evidence submitted for the first time on appeal and not presented before the Director.

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

B. Memberships

The regulation at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*2*) requires "[d]ocumentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields." USCIS determines if the association for which the person claims present or past membership requires that members have outstanding achievements in the field as judged by recognized experts in the field.[6]

The Petitioner did not claim the Beneficiary's eligibility for this criterion at initial filing. However, the Director indicated in the RFE that the Petitioner provided "several coaching licenses including the Qualification Program of Football Professionals, B License." In response to the Director's RFE, the Petitioner stated that "[t]he beneficiary does not have further information to meet this criterion."

As indicated above, the Petitioner provided various training and preparation certificates for the Beneficiary.[7] However, the Petitioner did not demonstrate how the certificates show the Beneficiary's membership in associations, let alone memberships in associations requiring outstanding achievements of their members.[8] Moreover, the Petitioner did not establish how receiving various coaching certifications equates to being a member in associations, requiring outstanding achievements. Even if the Petitioner demonstrated that the certificates reflect membership in associations, the Petitioner did not show whether recognized national or international experts judge the outstanding achievements for membership.

Accordingly, the Petitioner did not show the Beneficiary fulfills this criterion.

C. Published Materials

The regulation at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*3*) requires "[p]ublished material in professional or major trade publications or major media about the alien, relating to the alien's work in the field for which classification is sought, which shall include the title, date, and author of such published material, and any necessary translation." USCIS determines whether the published material was related to the person and the person's specific work in the field for which classification is sought.[9] USCIS then determines whether the publication qualifies as a professional publication, major trade publication, or major media publication.[10]

---

[6] *See generally 2 USCIS Policy Manual*, *supra*, at M.4(C)(2).

[7] As indicated above, we will not consider new evidence submitted for the first time on appeal and not presented before the Director.

[8] *See generally 2 USCIS Policy Manual*, *supra*, at M.4(C)(2) (providing that the petitioner must show that membership in the association requires outstanding achievements in the field for which classification is sought, as judged by recognized national or international experts).

[9] *See generally 2 USCIS Policy Manual*, *supra*, at M.4(C)(2).

[10] *Id.*

The Petitioner did not specifically claim eligibility for this criterion at initial filing. In the RFE, the Director indicated:

> The record contained published articles that talk about the beneficiary as a coach. However, while a review of this material would appear to indicate that it relates to the beneficiary's work and field of endeavor, the record does not contain sufficient independent, objective, evidence demonstrating the significance of the published material. Specifically, USCIS could not determine if the published material was presented in professional or major media. Therefore, this criterion has not been met.

In response, the Petitioner stated that "[t]he beneficiary does not have further information to meet this criterion."

As indicated above, the Petitioner initially submitted screenshots of various material, some of which do not identify the sources or contain website addresses.[11] Moreover, the majority of the material does not contain the title, date, and/or author, as required under this regulatory criterion. Further, some of the evidence does not even mention the Beneficiary or simply lists his name in a credit to a photograph.[12] Finally, the Petitioner did not present evidence before the Director establishing the professional, major trade, or major media nature of the publications.[13]

For these reasons, the Petitioner did not demonstrate the Beneficiary satisfies this criterion.

D. Original Contributions

> *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*).

The regulation at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*5*) requires "[e]vidence of the alien's original scientific, scholarly, or business-related contributions of major significance in the field." The Petitioner argues that it submitted testimonial letters from various athletes discussing the Beneficiary's "many specific techniques about soccer and goalkeeping," "different technical and work methodology," "unique work methodology," "specific scouting system," and "contributi[on] to the professional growth of many athletes." Although the Petitioner asserts that "[c]oaching methodologies and scouting systems that demonstrably enhance the quality of player development and influence the structure of national teams meet the threshold for contributions of major significance," the evidence refers to the Beneficiary's original athletic contributions in the field. The plain language of the regulation at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*5*) requires "scientific, scholarly, or business-related contributions." Here, the Petitioner did not demonstrate how the Beneficiary's athletic-related

---

[11] As indicated above, we will not consider new evidence submitted for the first time on appeal and not presented before the Director.

[12] *See generally 2 USCIS Policy Manual*, *supra*, at M.4(C)(2) (indicating that published material that includes only a brief citation or passing reference to the beneficiary's work is not "about" the beneficiary, relating to the beneficiary's work in the field).

[13] *Id.* (stating that in evaluating whether a submitted publication is a professional publication, major trade publication, or major media, relevant factors include the intended audience (for professional and major trade publications) and the relative circulation, readership, or viewership (for major trade publications and other major media)).

contributions fall into any of the regulatory areas of scientific, scholarly, or business. We consider the terms "scientific, scholarly, or business-related" using their ordinary, common meaning. *See, e.g., Perrin v. United States*, 444 U.S. 37, 42 (1979) ("A fundamental canon of statutory construction is that, unless otherwise defined, words will be interpreted as taking their ordinary, contemporary, common meaning . . . .").

Notwithstanding the above, while the testimonial letters praise the Beneficiary for improving their own skills and credit the Beneficiary for advancing their athletic development, the Petitioner did not show how the Beneficiary's work with individual athletes, as well as with the teams in which he participated as a coach, qualify as a contribution of major significance in the field. The Petitioner did not demonstrate the impact or influence the Beneficiary's contributions have had in the overall field rather than limited to the individuals or teams he has coached.[14] Here, the Petitioner has not shown how the Beneficiary's coaching and training have somehow affected the field in a significant, major way.

Accordingly, the Petitioner did not establish the Beneficiary fulfills this criterion.

III. CONCLUSION

The Petitioner did not establish the Beneficiary meets any additional criteria discussed above, including through the submission of comparable evidence. Although the Petitioner claims the Beneficiary's eligibility for a further criterion on appeal, judging under 8 C.F.R. § 214.2(o)(3)(iii)(B)(*4*), we need not reach this ground, as well as a review of the Director's favorable determination of the critical or essential capacity criterion under 8 C.F.R. § 214.2(o)(3)(iii)(B)(*7*), because it 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).[15] Further, we need not decide whether the Petitioner established eligibility for the consultation requirements under 8 C.F.R. § 214.2(o)(2)(ii)(D), 8 C.F.R. § 214.2(o)(5)(i)(B), and 8 C.F.R. § 214.2(o)(5)(i)(C). Accordingly, we reserve these issues.[16] Consequently, the Petitioner has not established the Beneficiary's eligibility for the O-1 visa classification as an alien 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.

[14] *See generally 2 USCIS Policy Manual*, *supra*, at M.4(C)(2) (stating that submitted letters should specifically describe the beneficiary's contribution and its significance in the field).

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

[16] *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).