U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 17442189

Date: JUN. 08, 2021

Appeal of California Service Center Decision

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

The Petitioner, a badminton club and badminton sports team, seeks to temporarily employ the Beneficiary as a badminton coach. To do so, the Petitioner seeks to classify the Beneficiary as an O-1 nonimmigrant of extraordinary ability in athletics. 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 California 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). Specifically, the Director determined that the Petitioner did not claim the Beneficiary met the evidentiary criterion at 8 C.F.R. § 214.2(o)(3)(iii)(A), and it did not establish that the Beneficiary satisfied the requirements of any of the alternative regulatory criteria described at 8 C.F.R § 214.2(o)(3)(iii)(B).[1]

The matter is now before us on appeal. On the Form I-290B, Notice of Appeal or Motion, counsel indicated that he would submit a brief and/or additional evidence to this office within 30 days. The appeal was filed on January 25, 2021. As of this date, no additional evidence has been incorporated into the record of proceeding, and the record will be considered complete.

In the letter accompanying the Form I-290B, counsel states the legal basis for the instant appeal as follows:

1. [The Beneficiary] has demonstrated extraordinary ability as a badminton coach in the national and international badminton arenas.

[1] The Petitioner claimed the Beneficiary met the criteria for: receipt of nationally or internationally recognized prizes or awards for excellence in the field under 8 C.F.R. § 214.2(o)(3)(iii)(B)(*1*); membership in associations under 8 C.F.R. § 214.2(o)(3)(iii)(B)(*2*); and, employment in a critical or essential capacity for distinguished organizations and establishments under 8 C.F.R. § 214.2(o)(3)(iii)(B)(*7*).

2. The Service erroneous[ly] concluded that [the Beneficiary] is not an extraordinary badminton coach. The evidence submitted, as well as evidence to be submitted in the supplemental appellate brief, will show [the Beneficiary's] qualifications & experience to be of extraordinary abilities.

3. Evidence – relevant probative evidence of eligibility has not been considered by the Service.

   Supplemental appeal brief will be filed within thirty days . . . . Based on the previous submitted [F]orm I-129 documents and the evidence to be submitted in the Supplemental Appeal Brief, [the Petitioner] respectfully requests that [the Form I-129] requesting O-1 classification for [the Beneficiary] be approved.

The Petitioner does not acknowledge or address the grounds for denial of the petition or contend that the petition was denied based on any specified error on the part of the Director.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part that "[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal."

Here, the Petitioner has not contested any aspect of the Director's decision and has not identified an erroneous conclusion of law or statement of fact on the part of the Director as a basis for the appeal. Therefore, the appeal will be summarily dismissed.

We note that the Director's decision adequately addressed the evidence submitted with respect to each of the claimed evidentiary criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B) and explained why such evidence was insufficient to meet the Petitioner's burden. The Petitioner was therefore given a sufficient explanation of the grounds for denial as required by 8 C.F.R. § 103.3(a)(1)(i), and a fair opportunity to contest the decision. We agree with the Director's determination that the Petitioner did not establish eligibility for the benefit sought.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. As the petitioner has not identified an erroneous conclusion of law or statement of fact in support of the appeal, the appeal must be summarily dismissed.

ORDER: The appeal is summarily dismissed.