U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF R-J-J-E- LLC

DATE: MAR. 13, 2018

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a jiu jitsu academy, seeks to temporarily employ the Beneficiary as an athletic competitor and an instructor. To do so, the Petitioner seeks O-1 nonimmigrant visa classification, 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 the evidentiary criteria applicable to individuals of extraordinary ability in athletics, 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). The Director subsequently affirmed the petition's denial twice on motion.

On appeal, the Petitioner provides copies of previously submitted documents and a letter asserting 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 work in the area of extraordinary ability. Department of Homeland Security (DHS) regulations include the following definition: "Extraordinary ability in the field of science, education, business, or athletics means 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 the initial 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)("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 extraordinary ability in athletics under section 101(a)(15)(o)(i) of the Act and 8 C.F.R. § 214.2(o)(3)(ii), (iii).[1]

II. ANALYSIS

Absent evidence of a major, internationally recognized award, we address whether the Petitioner offered documentation to establish that the Beneficiary satisfies at least three of the six evidentiary categories listed at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*1*)-(*8*).[2] The Director found the Beneficiary had met only the published material criterion at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*3*). On appeal, the Petitioner claims the Beneficiary meets two additional criteria. We assess all three criteria below and conclude the Beneficiary has not satisfied any of them.

> *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 provided a list of the Beneficiary's championship results and letters from the [redacted] mentioning several of his awards. In addition to photographs of the Beneficiary's various medals, the record includes pictures of him celebrating after his matches, standing on award podiums wearing his medals, and holding his medals or trophies at various competitions.

The Petitioner also offered competition results indicating that the Beneficiary won first place in the "brown" belt adult male feather weight category at the [redacted] 2015) and in the "brown" belt adult male light weight and open class categories at the [redacted] 2015).[3] In response to the Director's request for evidence, the

[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] The Petitioner does not claim a major, internationally recognized award to establish the Beneficiary's eligibility under the single evidentiary criterion at 8 C.F.R. § 214.2(o)(3)(iii)(A).

[3] These results show that numerous awards were presented in various categories of white, grey, yellow, orange/green,

Petitioner offered results from the 2016) showing that the Beneficiary placed third in the "black" belt adult male middle weight and open class categories.[4] The Beneficiary won these two awards at the black belt level after the petition was filed. Eligibility, however, must be established at the time of filing. *See* 8 C.F.R. § 103.2(b)(1), (12).

The record includes online articles and blog postings discussing some of the Beneficiary's matches, but the Petitioner has not demonstrated that this documentation shows that the Beneficiary's specific awards, named above, are nationally or internationally recognized.[5] Without sufficient evidence showing that the Beneficiary's awards from the aforementioned competitions are nationally or internationally recognized prizes or awards for excellence in the field, the Petitioner has not established that he meets this criterion.

> *Documentation 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.* 8 C.F.R. § 214.2(o)(3)(iii)(B)(*2*).

The Petitioner presented the Beneficiary's membership card for the and a letter from the identifying him as black belt recipient.[6] The Director noted that belt rank promotions are based on meeting standardized criteria set forth in "proficiency examinations."[7] The record does not contain sufficient evidence showing that or their black belt designations require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

On appeal, the Petitioner states: "We agree that mere membership in the does not in itself represent an 'outstanding achievement.' However, validation to the displays evidence of membership requiring outstanding ability. USCIS has also previously accepted membership in other cases as evidence of membership requiring outstanding achievement." The Petitioner, however, does not identify the specific cases in which membership was found to meet this criterion. Regardless, each case is decided on its own merits based on the record of proceeding before us. We are not bound by a decision of a service center or district director. *See La. Philharmonic Orchestra v. INS*, No. 98-2855, 2000 WL 282785, at *2 (E.D. La. 2000).

While the Petitioner asserts that regulations hold that only the top performing black belts are

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blue, purple, brown, and black belt levels.

[4] The record reflects the Beneficiary was promoted to black belt in 2016.

[5] We will further address these articles and blogs under the published material criterion at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*3*).

[6] This letter notes that "approximately 15,500 Black Belts" are registered throughout different countries. In addition, the aforementioned results from the Beneficiary's competitions show that there are at least five progressive levels of black belt "masters."

[7] An article in notes that the Beneficiary "was promoted to black belt by his long time coach,

qualified to compete in the [redacted]' the "Final Results" from the [redacted] 2015" indicate that athletes of various belt levels and skills participated in this competition. For instance, the 2015 [redacted] competition included "Juvenile" levels 1 and 2 white belts and blue belts, purple belts, brown belts, and black belts. The record therefore does not support the Petitioner's claim that only "elite" [redacted] members qualify to compete in the [redacted] or that participation in this competition requires outstanding achievements. Regardless, the Beneficiary's participation and first place award in the "brown" belt adult male feather weight category at the [redacted] in 2015 have already been addressed under the preceding criterion. The Petitioner has not shown that the Beneficiary's qualification for the [redacted] and his black belt registration with the [redacted] constitute memberships in associations that require outstanding achievements, as judged by recognized national or international experts. Accordingly, the Petitioner has not established that the Beneficiary meets this criterion.

> *Published 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.* 8 C.F.R. § 214.2(o)(3)(iii)(B)(*3*).

The Director found that that the Petitioner had demonstrated the Beneficiary's eligibility under this criterion. For the reasons outlined below, we find that the Petitioner has not submitted sufficient documentary evidence showing that he meets the plain language of this criterion. Accordingly, the Director's determination on this issue will be withdrawn.

The Petitioner offered various articles about the Beneficiary in [redacted] and [redacted] but their author was not identified as required by the regulatory criterion. In addition, the record includes several articles about the Beneficiary appearing in the [redacted] blog. The Petitioner also submitted an article about him posted at [redacted] "blogspot" and a promotional piece about one of his upcoming matches appearing in [redacted] The evidence, however, is not sufficient to demonstrate that the aforementioned online magazines and blogs are professional or major trade publications or major media.

As documentation of [redacted] and [redacted] status as major media, the Petitioner provided web traffic overviews from [redacted] reflecting total visits in the last six months of 115,000, 6,000, and 3,300,000, respectively. The record also includes data from [redacted] indicating that [redacted] had estimated monthly visits ranging from 115,000 to 155,000 from December 2015 to December 2016. While the Petitioner has provided information regarding [redacted] and [redacted] online traffic, the record does not demonstrate that these figures are a reliable indicator of the readership of [redacted] blog and [redacted] "blogspot." We note that the record does not establish whether these blogs are produced by the publications as opposed to being open-source sites through which anyone can post a blog entry. Regardless, [redacted] and [redacted] web traffic data do not establish that the aforementioned magazines' readership numbers elevate them to major media relative to other online

publications. Based on the foregoing, the Petitioner has not demonstrated that the Beneficiary meets this regulatory criterion.

III. CONCLUSION

The record does not satisfy at least three of the eight evidentiary criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B). Even if these initial evidentiary requirements had been met, the cumulative record does not demonstrate the Beneficiary's sustained national or international acclaim and recognition for achievements. 8 C.F.R. § 214.2(o)(3)(iii). Nor does the evidence show a level of expertise indicating that he is one of the small percentage at the very top of the field of endeavor. 8 C.F.R. § 214.2(o)(3)(ii). Consequently, the Petitioner has not established that the Beneficiary is eligible for the O-1 visa classification as an individual with extraordinary ability in athletics.

ORDER: The appeal is dismissed.

Cite as *Matter of R-J-J-E- LLC*, ID# 1061114 (AAO Mar. 13, 2018)