U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF F-L-S-S-C-, Inc.

DATE: OCT. 4, 2018

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

The Petitioner, a futsal association, seeks to temporarily employ the Beneficiary as a head coach. 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 Form I-129, Petition for a Nonimmigrant Worker, concluding that the Petitioner did not satisfy, as required, the alternative 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).

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 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 the 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, the Petitioner seeks to demonstrate the Beneficiary's sustained acclaim and recognition of achievements through evidence corresponding to the eight regulatory criteria at 8 C.F.R § 214.2(o)(3)(iii)(B). The Director determined that the Beneficiary satisfied only one criterion – published material at 8 C.F.R § 214.2(o)(3)(iii)(B)(3). The record contains two articles about the Petitioner from a major Brazilian newspaper. Accordingly, we agree with the Director that the Petitioner fulfilled the published material criterion.

On appeal, the Petitioner maintains that the documentation satisfies three additional criteria. As discussed below, we find that the evidence does not meet at least three criteria, as required.

> *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 record reflects that the Beneficiary won the [redacted] and [redacted] which are nationally and internationally recognized awards, with [redacted] Accordingly, the Petitioner demonstrated that the Beneficiary meets this criterion.

[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."

> *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 references a letter from [redacted] who confirmed that the Beneficiary is a registered member of [redacted] and the [redacted]. In order to meet this criterion, the Petitioner must establish the Beneficiary'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. While [redacted] indicated the Beneficiary's membership with [redacted] and [redacted] the Petitioner did not demonstrate that membership with these associations require outstanding achievement of their members, as judged by recognized national or international experts consistent with the regulation at 8 C.F.R. § 214.2(o)(3)(iii)(B)(*2*). For example, the Petitioner did not submit the bylaws or other evidence for the associations reflecting that outstanding achievements are an essential condition for membership.

In addition, the Petitioner contends that "his inclusion as a coach for the national futsal team of [redacted] as well as the mighty club team of [redacted] meets this criterion. The record contains a letter from [redacted] head coach for [redacted] who stated that he "invited [the Beneficiary] to train the [redacted] goalkeepers," and he "invited [the Beneficiary] to be part of [redacted] team's staff." Further, the Petitioner submits a letter from [redacted] president of the [redacted] who indicates that he "invited [the Beneficiary] to join [the] [redacted]' after meeting him when he worked as a goalkeeper coach for [redacted] However, this evidence does not demonstrate that the noted invitations are tantamount to membership in associations in the field for which classification is sought, which require outstanding achievements, as judged by recognized national or international experts. The Petitioner did not provide, for example, evidence establishing that [redacted] national team and [redacted] require outstanding achievements of members of their coaching staff and whether membership is judged by recognized national or international experts.

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

> *Evidence that the alien has been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation.* 8 C.F.R. § 214.2(o)(3)(iii)(B)(*7*).

The Petitioner argues that the Beneficiary's "role as a goalkeeper coach with [redacted] and [redacted] are critical and essential positions that led to the success of the aforementioned teams." As discussed under the awards criterion, the Petitioner presented recommendation letters reflecting the Beneficiary's coaching positions with teams that won futsal tournaments. However, the Petitioner did not demonstrate that the Beneficiary's capacity as a goalkeeper or fitness coach was either critical or essential to [redacted] or [redacted] at large. For instance, [redacted] stated that [redacted] "is one of the most awarded Futsal Clubs currently in the Futsal Industry"

and pointed out that the team won the [redacted] 15 times, the [redacted] in 2012 and 2015, the [redacted] in 2014, 2016, and 2017, and finished in first place 13 times at the [redacted], but the record does not sufficiently demonstrate the critical or essential nature of the Beneficiary's role in [redacted] during his one-season tenure as a goalkeeper coach.[2] Although the recommendation letters reference that [redacted] from [redacted] and [redacted] from [redacted] won awards for best goalkeepers, the Petitioner has not shown what contributions the Beneficiary made to the teams and how he was critical or essential to their overall achievements. Moreover, while the record contains evidence of the distinguished reputation of [redacted] the Petitioner did not establish such reputation for Al-Arabi. Accordingly, the Petitioner did not demonstrate that the Beneficiary satisfies this 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 we concluded that the Beneficiary met three, we must still consider all of the documents in the aggregate to determine whether they are indicative of eligibility. *See* 59 Fed. Reg. at 41820; *Chawathe*, 25 I&N Dec. at 376. Here, the record does not sufficiently demonstrate that the Beneficiary achieved a level of expertise indicating that he is one of the small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. § 214.2(o)(3)(ii) (definition of extraordinary ability in athletics). We further find that the Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. We note that the submitted evidence relates almost entirely to the Beneficiary's futsal coaching from 2014 to 2015, with one recommendation letter briefly noting his coaching experience prior to 2014. In addition, the Petitioner did not document the Beneficiary's coaching accomplishments after his tenure with [redacted] in 2015. Accordingly, the Petitioner has not shown the sustained nature of the Beneficiary's national or international acclaim through required "extensive documentation." H.R. Rep. No. 101-723 (Sept. 19, 1990); *see also* section 101(a)(15)(O)(i) of the Act. Accordingly, the Petitioner has not established that the Beneficiary is eligible for the O-1 visa classification as a foreign national with extraordinary ability in athletics.

ORDER: The appeal is dismissed.

Cite as *Matter of F-L-S-S-C-, Inc.*, ID# 1439500 (AAO Oct. 4, 2018)

[2] We note that many of the successes that [redacted] highlights occurred prior to or after the Beneficiary's employment.