



**U.S. Citizenship
and Immigration
Services**

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

In Re: 25234379

Date: FEB. 16, 2023

Appeal of Vermont Service Center Decision

Form I-129, Petition for a Nonimmigrant Worker (Athlete, Artist, or Entertainer – P)

The Petitioner, a martial arts training facility, seeks to classify the Beneficiary as an internationally recognized athlete. *See* Immigration and Nationality Act (the Act) Section 101(a)(15)(P)(i)(a), 8 U.S.C. § 1101(a)(15)(P)(i)(a). This P-1 classification makes nonimmigrant visas available to certain high performing athletes and coaches. Sections 204(i)(2) and 214(c)(4)(A) of the Act, 8 U.S.C. §§ 1154(i)(2), 1184(c)(4)(A).

The Director of the Vermont Service Center denied the petition, concluding that the Petitioner did not demonstrate that the Beneficiary qualified as an internationally recognized athlete, because it did not present sufficient documentary evidence satisfying at least two of the seven evidentiary criteria specified in 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(i)-(vii).

The Petitioner appeals, maintaining that it has established eligibility to classify the Beneficiary as an internationally recognized athlete. 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

Under sections 101(a)(15)(P)(i) and 214(c)(4)(A)(i)(I) of the Act, a foreign national having a foreign residence which he or she has no intention of abandoning may be authorized to come to the United States temporarily to perform as an athlete, individually or as part of a group or team, at an internationally recognized level of performance. *See also* 8 C.F.R. § 214.2(p)(1)(ii)(A)(I). Section 214(c)(4)(A)(ii)(I) of the Act specifies that a petitioner seeking to classify a foreign national as an internationally recognized athlete must show that the foreign national is entering the United States temporarily and solely for the purpose of performing “as such an athlete with respect to a specific athletic competition.” *See also* 8 C.F.R. § 214.2(p)(1)(ii)(A)(I) (stating the P-1 classification applies to a foreign national who is coming to the United States temporarily “[t]o perform at specific athletic

competition as an athlete, individually or as part of a group or team, at an internationally recognized level of performance”).

The U.S. Citizenship and Immigration Services (USCIS) Policy Manual specifies:

Relevant considerations for determining whether competitions are at an internationally recognized level of performance such that they require the participation of an internationally recognized athlete or team include, but are not limited to:

- The level of viewership, attendance, revenue, and major media coverage of the events;
- The extent of past participation by internationally recognized athletes or teams;
- The international ranking of athletes competing; or
- Documented merits requirements for participants.

If the record shows the participation of internationally recognized caliber competitors is currently unusual or uncommon, this may indicate that the event may not currently be at an internationally recognized level of performance. In addition, while not necessarily determinative, the fact that a competition is open to competitors at all skill levels may be a relevant negative factor in analyzing whether it is at an internationally recognized level of performance. If the event includes differentiated categories of competition based on skill level, the focus should be on the reputation and level of recognition of the specific category of competition in which the athlete or team seeks to participate.

2 *USCIS Policy Manual* N.2(A)(1), <https://www.uscis.gov/policy-manual/volume-2-part-n-chapter-2>; see also USCIS Policy Alert PA-2021-04, *Additional Guidance Relating to P-1A Internationally Recognized Athletes* 1-2 (Mar. 26, 2021), <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20210326-Athletes.pdf>.

Department of Homeland Security (DHS) regulations define “internationally recognized” as “having a high level of achievement in a field evidenced by a degree of skill and recognition substantially above that ordinarily encountered, to the extent that such achievement is renowned, leading, or well-known in more than one country.” 8 C.F.R. § 214.2(p)(3).

Moreover, the regulation at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2) requires that a petitioner submit documentation satisfying at least two of the following seven evidentiary criteria regarding the beneficiary:

- (i) Evidence of having participated to a significant extent in a prior season with a major United States sports league;

- (ii) Evidence of having participated in international competition with a national team;
- (iii) Evidence of having participated to a significant extent in a prior season for a U.S. college or university in intercollegiate competition;
- (iv) A written statement from an official of the governing body of the sport which details how the alien or team is internationally recognized;
- (v) A written statement from a member of the sports media or a recognized expert in the sport which details how the alien or team is internationally recognized;
- (vi) Evidence that the individual or team is ranked if the sport has international rankings; or
- (vii) Evidence that the alien or team has received a significant honor or award in the sport.

II. ANALYSIS

A. Introduction

The Petitioner operates as a martial arts school specializing in Brazilian Jiu-Jitsu (BJJ) instructional programs. Page 4 of the petition indicates that the Petitioner seeks to employ the Beneficiary as a “Professional Athlete.”¹ The record indicates that since at least 2012, the Beneficiary has competed in BJJ tournaments in Brazil and the United States. The Petitioner seeks to employ the Beneficiary as a martial arts athlete for a period of five years, to compete monthly on its behalf in competitions sponsored by the International Brazilian Jiu-Jitsu Federation (IBJJF). It provided the 2021 schedule of competitions sponsored by the IBJJF, and prior years’ schedules for 2018 through 2020 showing the competitions repeat annually. The Petitioner stated at question #5 on the O and P Classification Supplement that the Beneficiary’s proposed duties would be to “fight, exhibit, train, and promote fighting events and functions.” The record shows that the Beneficiary was competing at the brown belt level as of the date when the petition was filed on December 21, 2021.²

¹ Although the Petitioner refers to the Beneficiary as a “professional athlete,” it neither articulated a basis for this characterization nor presented evidence that he qualifies as a professional athlete as that term is defined in section 204(i)(2) of the Act. *See also* sections 101(a)(15)(p)(i)(a) and 214(c)(4)(A)(i)(II) of the Act. As such, we will not consider whether the Beneficiary qualifies as a professional athlete pursuant to section 214(c)(4)(A)(i)(II) of the Act.

² The record also indicates that the Beneficiary was promoted to black belt in [REDACTED] 2021, and subsequently competed in the black belt division. However, all the Beneficiary’s competitions in the black belt division occurred after the date the petition was filed. The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1). Therefore, our decision will not consider the Beneficiary’s competition results in the black belt division.

B. Evidentiary Criteria

As discussed, to demonstrate eligibility to classify the Beneficiary as a P-1 athlete, the Petitioner must submit evidence that satisfies at least two of the seven evidentiary criteria listed under 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(i)-(vii). In denying the petition, the Director determined that the Petitioner met only one of the regulatory criteria, the criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(vi) (ranking in the sport). The record includes a screenshot from the IBJJF, indicating that at the time of filing the Beneficiary was ranked 5 in the [redacted] category and 1 in the [redacted] category.³ Therefore, the record supports the Director's conclusion as relating to this criterion.

On appeal, the Petitioner maintains that the Beneficiary meets the following three additional criteria: 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(iv) (written statement from an official of the governing body of the sport detailing the Beneficiary's international recognition); 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(v) (written statement from a member of the sports media or a recognized expert in the sport detailing the Beneficiary's international recognition); and, 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(vii) (receipt of a significant honor or award in the sport). In addition, the Petitioner references a regulatory category in the unrelated nonimmigrant O-1 classification for individuals of extraordinary ability in arts, stating "[a]s per the 'catch-all' category at [8 C.F.R.] § 214.2(o)(3)(iv)(C) the Service is able to except and evaluate Petitioner's comparable evidence when the 'criteria do not readily apply,' in whole or in part." Because this proceeding is based on the Petitioner seeking classification for the Beneficiary as an internationally recognized athlete under 8 C.F.R. § 214.2(p), we will only consider those applicable arguments and decline to reach determinations on irrelevant eligibility claims.

For the reasons discussed below, after reviewing all of the evidence in the record we conclude that the Petitioner did not establish that the Beneficiary satisfies the requirements of at least two criteria.

A written statement from an official of the governing body of the sport which details how the alien or team is internationally recognized. 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(iv).

In support of this criterion, the Petitioner provided a written statement from [redacted] of the IBJJF, who describes the organization as the official governing body of the sport at the world level. [redacted] indicates that the Beneficiary has achieved the rank of brown belt and "is an active competitor in our events." He reviews some of the awards the Beneficiary received at the brown belt level in BJJ competitions in 2021, such as the [redacted] Open IBJJF Jiu-Jitsu Championship, [redacted] Open IBJJF Jiu-Jitsu Championship, [redacted] IBJJF Jiu-Jitsu Championship, [redacted] Open IBJJF Jiu-Jitsu Championship, [redacted] Open IBJJF Jiu-Jitsu Championship, [redacted] IBJJF Jiu-Jitsu Championship, [redacted] Open IBJJF Jiu-Jitsu Championship, and [redacted] Open IBJJF Jiu-Jitsu Championship. In addition, [redacted] reviews awards the Beneficiary received at the purple belt level in 2019 in

³ According to page 4 of the "IBJJF General System of Graduation" from IBJJF.com contained in the record, there are a total of eight belt levels, with brown belt being on level 4, which is lower than four other levels: black, red and black, red and white, and red.

four BJJ competitions. [] indicates the Beneficiary has achieved first, second or third place finishes in all these events in his age and weight category in the purple and brown belt grades. Assuming arguendo that the IBJJF is the governing body of the sport, [] reviews the Beneficiary's first, second, and third place finishes in international competition in the purple and brown belt grades, but he does not affirm that the Beneficiary is an internationally recognized athlete and does not explain the significance of these achievements or how they convey international recognition in the sport.

The Petitioner also submitted under this criterion letters from [] and [] Brazilian Jiu-Jitsu Association. However, as the evidence submitted does not establish that either [] Brazilian Jiu-Jitsu Association are the governing body of the sport, this evidence does not meet the requirements of the regulatory criterion. We will consider the letters from [] below, under the criterion at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(v). Based on the above, the Petitioner has not satisfied this criterion.

A written statement from a member of the sports media or a recognized expert in the sport which details how the alien or team is internationally recognized. 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(v).

On appeal, the Petitioner maintains that testimonials from individuals involved in Brazilian Jiu-Jitsu satisfy this criterion. Assuming arguendo that the authors of the letters qualify as members of the sports media or recognized experts in the sport of BJJ, their letters do not detail how the Beneficiary is internationally recognized. Specifically, while the letters list the Beneficiary's competitive success at 2021 [] IBJJF Jiu-Jitsu Championship, confirm that he competes at the brown belt level, and praise him as a skilled BJJ athlete, they do not explain how he has achieved international recognition based on his competitive successes and skills as a competitive BJJ athlete.

For example, a letter from [] a BJJ athlete, states that the Beneficiary is "an exceptional athlete with extraordinary abilities in the sport." [] a BJJ competitor, asserts that the Beneficiary's achieving the rank of brown belt "at his young age this is a very high accomplishment" and opines that the Beneficiary "will continue to rise in the sport." [] the president of the petitioning organization, describes the Beneficiary as "an athlete of exceptional ability and far from the average athlete with his length of time in the sport and his belt." [] a BJJ athlete, describes the Beneficiary's abilities as "exceptional and out of the ordinary." [] a BJJ athlete, states that the Beneficiary "is making a name for himself" and "will continue to rise in the sport . . ." [] a BJJ athlete, states that the Beneficiary's "uprising achievements in the field of the Brazilian jiu jitsu sport are worthy of admiration." [] a BJJ athlete, emphasizes that "at [the Beneficiary's] short career . . . he currently holds the brown belt, which for most athletes, it takes many years to achieve." [] a BJJ instructor, asserts that the Beneficiary is a "top contender in the sport in his division." [] a staff writer for [] states that the Beneficiary's ranking 1 in the IBJJF Male [] category shows he "has the potential to be one of the premier athletes in the sport." [] a BJJ coach and instructor, provides that "IBJJF championships include competitors from intermediate ranks such as Blue and Purple belts; advanced rank such as Brown belt; and expert rank which is the Black belt." []

a BJJ athlete, asserts that the “achievements that has conquered at the age of 22 are not the usual” and he “has a very promising career.”

The letters in the record contain general praises and conclusory statements that the Beneficiary is “exceptional” and “extraordinary.” They, however, do not discuss the Beneficiary’s level of recognition, and they are insufficient to establish that he is internationally recognized as a Brazilian Jiu-Jitsu athlete. As explained in the Director’s decision, the letters are insufficient to show that the Beneficiary’s level of achievement is substantially above that ordinarily encountered, to the extent that such achievement is renowned, leading, or well known in more than one country. See 8 C.F.R. § 214.2(p)(3) (defining “internationally recognized”).

The Petitioner has also presented an article from Graciemag.com that documents the Beneficiary’s ranking and his results in two competitions. This article, however, does not indicate that he is an internationally recognized BJJ athlete. The Petitioner also has not offered additional information relating to the publication in which the article appeared, explaining the potential reach or readership of the article. Even if we were to accept that the article constitutes “[a] written statement from a member of the sports media,” we would not conclude that it satisfies this criterion, because it does not “detail[] how the [Beneficiary] is internationally recognized.” 8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(v). As such, the Petitioner has not satisfied this criterion.

Based on the reasons we have discussed above, the Petitioner has not met the requirements under 8 C.F.R. § 214.2(p)(4)(ii)(B)(2). Specifically, it has not submitted documentation satisfying at least two of the seven listed evidentiary criteria.

Evidence that the alien or team has received a significant honor or award in the sport.
8 C.F.R. § 214.2(p)(4)(ii)(B)(2)(vii).

The Petitioner maintains that the Beneficiary meets this criterion based on evidence related to his tournament results as a Brazilian Jiu-Jitsu athlete in 2019 and 2021. Here, although the Petitioner presented documentation of the Beneficiary’s competitive successes, it did not offer sufficient evidence establishing that his results in his particular categories constituted receipt of “a significant honor or award in the sport,” as required under this criterion. The Beneficiary has competed in national and international BJJ competitions such as the 2021 [] IBJJF Jiu-Jitsu Championship, and the 2021 [] IBJJF Jiu-Jitsu Championship. These competitions feature participants at all belt levels and result in a champion at each belt level, gender, weight, and age category.

The Beneficiary has achieved first, second, or third place finishes in events in 2019 and 2021 in his age and weight category; however, we note that he did so in the purple and brown belt grades, and not at the highest level of competition as a black belt. The Petitioner has not submitted evidence that winning a national or international competition at a lower belt grade conveys the same type of national or international recognition to the medal winner.

While a tournament, as a whole, might be well-known and might attract a large number of participants, the Petitioner did not show that the Beneficiary’s placement in his particular categories constituted his receipt of “a significant honor or award in the sport,” as required under this criterion. For example, other than one article from Graciemag.com that reports on his 1st place finishes at the 2021 []

[redacted] Open IBJJF Jiu-Jitsu Championship and 1st place finish at the [redacted] IBJJF Jiu-Jitsu Championship, the record does not contain evidence that the Beneficiary's results as a purple or brown belt were reported by the sports media in the United States or Brazil, or otherwise recognized beyond the context of the competition. The significance of the Beneficiary's victories at the purple and brown belt levels has not been established and cannot be considered indicative of the Beneficiary's international recognition, nor has the Petitioner established that the Beneficiary's recent achievement of a black belt in and of itself garnered the Beneficiary international recognition.

Further, the Petitioner argues that the Beneficiary's being ranked 1 by IBJJF in the "Male [redacted] [redacted] category satisfies this criterion. The Petitioner has not established sufficiently that BJJ competitors' rankings are evidence of a significant honor or award in the sport. A BJJ competitor is not awarded a ranking based on placement at a specific competition or tournament. Instead, the athlete's ranking is based on their performance in a variety of competitions over a period time. Nonetheless, the Petitioner did not provide evidence establishing the significance and magnitude of being ranked number 1 in the Male [redacted] category. For example, other than the above article from Graciemag.com that mentions that ranking, the record does not contain evidence to show that holding such a ranking garners media attention in the general or martial arts media or other indicia of significance in the sport. Accordingly, we cannot conclude that the Beneficiary has received a significant honor or award in the sport.

Based on the reasons we have discussed above, the Petitioner has not submitted evidence to meet at least two of the regulatory criteria at 8 C.F.R. § 214.2(p)(4)(ii)(B)(2), and therefore has not established that the Beneficiary is an internationally recognized athlete.

Although on appeal the Petitioner provides a letter from [redacted] we will not consider new eligibility claims or evidence for the first time on appeal. *See Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988) (providing that if "the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it for the record before the denial, we will not consider evidence submitted on appeal of any purpose" and that "we will adjudicate the appeal based on the record of proceedings" before the Chief); *see also Matter of Obaighena*, 19 I&N Dec. 533 (BIA 1988). In sum, the appeal will be dismissed, as the Petitioner has not established the Beneficiary's eligibility as an internationally recognized athlete because it has not met the requirements under 8 C.F.R. § 214.2(p)(4)(ii)(B)(2).⁴

III. CONCLUSION

The Petitioner has not established its eligibility to classify the Beneficiary as an internationally recognized athlete because it has not met the requirements under 8 C.F.R. § 214.2(p)(4)(ii)(B)(2). The

⁴ We further note that according to the records at the [redacted] Division of Business Services website, the Petitioner is currently dissolved. *See* [redacted] Division of Business Services, [redacted] Department of State, [https://\[redacted\].asp](https://[redacted].asp) (accessed on February 16, 2023). If the petitioning organization is currently dissolved, this fact is material to its eligibility for the requested visa. Specifically, the Petitioner's dissolution raises serious questions about whether it continues to exist as an importing employer. *See* section 214(c)(1) of the Act, 8 U.S.C. § 1184(c)(1).

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.