Special Employment Rules for Trading of O and P Visa Athletes

Recently the American Immigration Lawyer's Association posted a practice pointer for member lawyers on filing procedures for O & P visa athletes who are traded from one organization to another. This posting highlights an important factor that agents, sports leagues, sponsors and petitioning employers should keep in mind when hiring a foreign athlete who is already sponsored by another petitioner. Let's face it, the nature of today's professional sports world, whether it be actions sports or baseball, involves extremely fast-paced trading of elite athletes from one team to another, oftentimes overnight. Athletes and their agents need practical ways to carry on their professional sports activities without interruption, and waiting a couple months or even a couple weeks is simply not an acceptable position for elite athletes.

In come the O and P visa immigration regulations. The O and P visa regs anticipated the real-life dynamics of athlete trading within the industry, and they have carved out a special rule that seeks to meet the demanding fast-twitch changes in employment for an athlete who needs to be ready to compete the next day after trading leagues, changing employers, or after signing with a brand new sponsor.

So here's the gist of it: a professional P-1 athlete who is traded from one organization to another will continue to have employment authorization for up to 30 days after switching over to the new employer. The new league or organization is required to file a new P-1 I-129 non-immigrant petition within these 30 days. If the new organization, agent or employer doesn't get their petition in on time, the athlete loses employment authorization, and must cease all employment activities.

If the new organization files the I-129 within 30 days, the professional athlete will stay in valid O or P-1 status, and may continue to work until the new petition is approved. This is a pretty nice benefit for O-1 and P-1 athletes, since other non-immigrant visa categories don't offer the ability for continued employment without either a filed or an approved petition in place before the employment transfer. An important note: the ability to transfer before filing a new petition only applies to P-1 and O-1 athletes who are already hold these non-immigrant statuses. In other words, an athlete who is applying for new employment under these categories must have an approved I-129 in place before taking on competition, endorsement or tournament circuit work duties in the U.S.

If you have questions on this or any other immigration law question, feel free to contact attorney Vidal Cordova by phone or email at (619) 871-8037, vidal@askthevisalawyer.com.

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