MATTER OF P-O-A-

DATE: NOV. 8, 2017

APPEAL OF VERMONT SERVICE CENTER DECISION

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

The Petitioner, a school, seeks to temporarily employ the Beneficiary as a table tennis 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 Vermont Service Center denied the petition, 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 provides additional evidence and 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 define "extraordinary ability in the field of science, education, business, or athletics" as "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 alternative evidentiary criteria for establishing a beneficiary's sustained acclaim and the recognition of achievements. A petitioner may submit evidence either of "a major, internationally recognized award, such as a Nobel Prize," or of at least three of eight listed categories of documents. 8 C.F.R. § 214.2(o)(3)(iii)(A)-(B). And if the petitioner demonstrates that

the listed criteria do not readily apply to the beneficiary's occupation, it may submit comparable evidence to establish 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). In *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010), we held that, "truth is to be determined not by the quantity of evidence alone but by its quality." That decision explains that, pursuant to the preponderance of the evidence standard, we "must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true." *Id.* Accordingly, where a petitioner provides qualifying evidence under 8 C.F.R. § 214.2(o)(3)(iii), we will determine whether the totality of the record shows eligibility under section 101(a)(l5)(o)(i) of the Act and 8 C.F.R. § 214.2(o)(1)(ii).[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. The Director determined that the Beneficiary did not satisfy any of the evidentiary criteria described at 8 C.F.R § 214.2(o)(3)(iii)(B). The Petitioner maintains that the documentation satisfies at least three of those criteria. As discussed below, we find that the exhibits do not satisfy any of the evidentiary categories described at 8 C.F.R. § 214.2(o)(3)(iii)(B).

> *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 maintains that the Beneficiary satisfies this criterion because she was a member of the [redacted] table tennis team, which finished fourth in the 2009 [redacted] In addition, the Petitioner contends that this "table tennis championship sponsored by the [redacted] is a national event and its awards are national awards." The record includes information about the [redacted] the 2009 women's team championship bracket reflecting [redacted] fourth place, profiles of two other athletes who were singles champions at the [redacted] and the 2009 [redacted] program booklet. The Petitioner, however, must demonstrate that the Beneficiary received "prizes or awards for excellence" and that they are "nationally or internationally recognized" for excellence in her field. The aforementioned evidence is not sufficient to demonstrate that the Beneficiary's team's fourth place result is a nationally or internationally recognized prize or award for excellence in her sport.

[1] While not at issue here, there are other evidentiary requirements for O foreign nationals, including documentation relating to the terms of the proposed employment and the nature of the activities and events in which the beneficiary will participate. 8 C.F.R. § 214.2(o)(2)(ii).

Furthermore, the Petitioner asserts that the Beneficiary's 47th ranking among female members of [redacted] in [redacted] 2015 meets this regulatory criterion. The Petitioner has not shown, however, that this [redacted] points rating is a nationally or internationally recognized prize or award in table tennis.

The record also contains copies of certificates the Beneficiary received for placing third in [redacted] (2001), contributing to the [redacted] table tennis team (2009), qualifying as a Chinese [redacted] (2002), and placing third in the women's team category at the [redacted] table tennis championships (2006). In addition, the Petitioner provides the Beneficiary's certificates for winning second place in the [redacted] (2002), placing first in the [redacted] (2002), finishing first in the "[redacted] (2004), and earning the [redacted] championships (2006). The Petitioner, however, does not offer information regarding the aforementioned certificates or supporting evidence, such as the pool of individuals competing or the level of attention they attract within the field, to demonstrate that they are nationally or internationally recognized prizes or awards for excellence in the Beneficiary's sport. The Petitioner has not established therefore that the Beneficiary 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 asserts that the Beneficiary's [redacted] 47th player ranking, [redacted] and [redacted] meet this regulatory criterion. The record, however, does not show that player membership in the [redacted] requires outstanding achievements, as judged by recognized national or international experts.

With respect to the Beneficiary's [redacted] and [redacted] the Petitioner provided a document entitled [redacted] that lists the [redacted] requirements for the [redacted] Individuals must pass a club coach written test, hold [redacted] affiliate membership for at least two years, have earned a minimum estimated rating of 1400, complete a [redacted] Form for club coach, and submit a certification fee to [redacted] On appeal, the Petitioner points to statements from [redacted] coach at the [redacted] and [redacted] Director of Operations for [redacted] indicating that there are only approximately [redacted] certified female table tennis coaches in the United States. In addition, regarding the Beneficiary's [redacted] the record includes information from the [redacted] website indicating that candidates are required to: attend a 24-hour course conducted by an [redacted] approved instructor, give a 10-minute coaching practical presentation, and complete 30 hours of coaching practice – including five hours supervised

by the [redacted] The record does not show, however, that the aforementioned requirements for [redacted] and [redacted] rise to the level of outstanding achievements in table tennis.[2] Without evidence demonstrating that attaining [redacted] in the [redacted] and the [redacted] is due to a determination of outstanding achievements, as judged by national or international experts in table tennis, the Petitioner has not established that the Beneficiary meets this regulatory 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 Petitioner initially submitted various press releases about the Beneficiary that were distributed online via [redacted] and an unattributed article about her in the [redacted] a community newspaper in [redacted] Missouri that prints "9,000 newspapers every other Tuesday with a total readership over 20,000 each issue." The record also included articles distributed by [redacted] and its athletic department. The Director determined that the aforementioned articles were insufficient to meet this regulatory criterion because they were not in major trade publications or other major media. On appeal, the Petitioner does not contest the findings on this material and we conclude that the record supports the Director's determination.

In support of the appeal, the Petitioner submits a press release, entitled ' [redacted] from [redacted].[3] This press release about the Beneficiary lists its "media contact" as ' [redacted] but does not identify an author. In addition, the Petitioner offers a [redacted] 2016 posting by ' [redacted] appearing in the ' [redacted] section of the [redacted] website. This posting shares the aforementioned press release title of [redacted] but includes only a photograph and two sentences of content.

The record also contains an [redacted] 2009 "news release" prepared by the [redacted] entitled ' [redacted] but this news release is about the tournament and only mentions the Beneficiary and her partner in passing. The plain language of the regulatory criterion requires "published material . . . about the alien." Articles that are not about the Beneficiary do not meet this regulatory criterion. *See, e.g., Negro-Plumpe v. Okin*, 2:07-CV-00820 at *1, *7 (D. Nev. Sept. 2008) (upholding a finding that articles about a show are not about the actor). The Petitioner also provides an article about the Beneficiary entitled ' [redacted]

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[2] The record reflects that above the [redacted] designation, there are more advanced "State," "Regional," and "National" levels. Furthermore, beyond the [redacted] there are higher designations such as [redacted] and "High Performance."

[3] [redacted] is an Internet news service that blends professional contributions with user-submitted content. [redacted] http://www. [redacted] (visited [redacted] 2017, and incorporated into the record).

in the 2017 newsletter, but this material post-dates the filing of the petition. *See* 8 C.F.R. § 103.2(b)(1), (12).

To qualify as major media, a publication should have significant national or international distribution. Some newspapers, such as the *New York Times*, nominally serve a particular locality but would qualify as major media because of significant national distribution, unlike small local community papers.[4] In this case, the Petitioner did not present information regarding the general online readership of the websites on which the above articles appeared, or other evidence showing that they constitute professional or major trade publications or major media. For the above reasons, the Petitioner has not established that the Beneficiary satisfies this criterion.

> *Evidence of the alien's original scientific, scholarly, or business-related contributions of major significance in the field.* 8 C.F.R. § 214.2(o)(3)(iii)(B)(*5*).

The Petitioner contends that the Beneficiary has made contributions of major significance as both a player and a coach. As evidence under this criterion, the Petitioner offers information about the penhold paddle grip, the and the aforementioned club's It also provides several recommendation letters praising the Beneficiary's skills and experience in her sport, but they do not identify her particular contributions of major significance in the field. For example, while mentions that the Beneficiary is skilled in "the lesser taught penhold grip," his letter and the supporting information submitted from the website do not indicate that she originated this technique or, for instance, that her coaching has been responsible for its popularity in national or international competition. The Director determined the Petitioner's documentation was insufficient to establish that the Beneficiary's playing and coaching work constitutes original contributions of major significance in her field.

In support of the appeal, the Petitioner submits a reference letter from president of the asserts that the Beneficiary "facilitated the creation of back in 2008" and helped lead its team to a 4th place at the in 2009. We note that the college had multiple players participating in the 2008-2009 seasons, and the record does not demonstrate that the Beneficiary created or founded the school's table tennis program. For instance, an 2009 article by the news coordinator quotes the director of the school's international program office as stating: "We wouldn't have a team without The Petitioner also provides a bracket reflecting first place victory in 2015, but the record does not show that the Beneficiary played for or coached the team during that year. Regardless, the Petitioner has not demonstrated that the Beneficiary's involvement with the table tennis team and its fourth place finish rise to the level of original contributions of major significance in the field.

[4] Even with nationally circulated newspapers, consideration must be given to the placement of the article. For example, an article that appears in the *Washington Post*, but in a section that is distributed only in Fairfax County, Virginia, cannot serve to spread an individual's reputation outside of that county.

In addition, the Petitioner submits a brochure entitled ' ' that provides information about its preschool table tennis program, webpages from the identifying its multiple coaches (including the Beneficiary), and further information about the and its The aforementioned documentation, however, does not single out the Beneficiary's original contributions to these programs or explain how her particular work is of major significance in the field.

Furthermore, the Petitioner offers the rating for its founder, 56-year-old who is one of the Beneficiary's pupils. The Petitioner notes that ' now has good control of sugar level, competes with other younger athletes and wins," but the record does not show that the Beneficiary's coaching him to a rating of 1897 and to the noted wins represent original contributions of major significance in the field.

The letters of recommendation offered by the Petitioner primarily contain discussions of the Beneficiary's playing skills and coaching activities, and attestations of her status in the field without providing specific examples of how those contributions rise to a level consistent with major significance in the field. USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990). Furthermore, uncorroborated statements from the Beneficiary's references are insufficient to demonstrate her eligibility. *See Visinscaia*, 4 F.Supp.3d at 134-35; *Matter of Caron Int'l, Inc.*, 19 I&N Dec. 791, 795 (Comm'r 1988) (holding that an agency "may, in its discretion, use as advisory opinions statements . . . submitted in evidence as expert testimony," but is ultimately responsible for making the final determination regarding an individual's eligibility for the benefit sought). Without additional supporting evidence showing that the Beneficiary's work has been unusually influential, has substantially impacted her sport, or has otherwise risen to the level of original contributions of major significance in playing or coaching table tennis, the Petitioner has not established that the Beneficiary meets this regulatory 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 scope of this evidentiary criterion focuses on the relative importance of the Beneficiary's position within the scope of the organizations that have employed her. The Petitioner contends that the Beneficiary will serve, or has served, in a critical or essential capacity as coach for the petitioning organization, P-O-A-, and for The Petitioner submits a list of P-O-A- schools from its website and maintains that the Beneficiary "is the only table tennis coach P-O-A- is going to hire." The record, however, does not show that the Beneficiary has been employed by P-O-A- or performed for the organization in a critical or essential capacity. Furthermore, the evidence is insufficient to demonstrate that P-O-A- has earned a distinguished reputation in the field.

With respect to the Beneficiary's work for states: "[The Beneficiary] has contributed to our club in many ways and specializes in teaching young children. She is very patient and will spend as much time as needed with beginners. . . . We currently have 3 full-time male

coaches and [the Beneficiary] [works] part-time as the only female." In addition, a member of board of trustees, discusses the reputation of the club and notes that the Beneficiary was among the few female coaches selected to participate in In addition, the Petitioner submits an article about the available on the website of (a former and coach at an article about junior player from the website, and further promotional material from the club's website.

The record does not establish, however, that the Beneficiary has been employed in a critical or essential capacity for The Petitioner did not provide an organizational chart or other documentation showing where the Beneficiary's position fell within the organization's general hierarchy, such as evidence of how her part-time position related to other coaching positions in the organization or the number of coaches who instructed the club's top-level players. Further, it did not submit material explaining the importance of the Beneficiary to the organization as a whole aside from asserting that she is the club's only female coach. Without more, we cannot conclude that the Beneficiary played a critical or essential role for Furthermore, although the Petitioner offered information about from its website and club members, this evidence is not sufficient to demonstrate that the organization has a distinguished reputation. USCIS need not rely on self-promotional material. *Cf. Braga v. Poulos*, No. CV 06 5105 SJO, *aff'd* 317 Fed. Appx. 680 (C.A.9). As a result, the Petitioner has not provided sufficient material to meet this criterion.

> *Evidence that the alien has either commanded a high salary or will command a high salary or other remuneration for services, evidenced by contracts or other reliable evidence.* 8 C.F.R. § 214.2(o)(3)(iii)(B)(*8*).

The Director determined that the record lacked reliable evidence to substantiate the Petitioner's claim regarding the Beneficiary's prospective high salary. Specifically, while the Petitioner indicated that it would pay the Beneficiary $240,000 per year, the Director noted that the record did not include documentation supporting that assertion. On appeal, rather than offering arguments or evidence to overcome the Director's finding, the Petitioner states only that the Beneficiary has not been on the "payroll because she is still holding F-1 Student Visa, she currently on a part time base [*sic*] as a volunteer." The Petitioner does not contest the Director's particular findings on this issue or offer further evidence under this criterion. Accordingly, the record does not support a finding that the Beneficiary meets 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). Consequently, 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 P-O-A-*, ID# 671088 (AAO Nov. 8, 2017)