U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 10325630

Date: SEPT. 8, 2020

Appeal of Vermont Service Center Decision

Form I-129, Petition for Nonimmigrant Worker (Extraordinary Ability – O)

The Petitioner, a badminton club training center, seeks to classify the Beneficiary, a badminton coach, as a foreign national of extraordinary ability in athletics. To do so, the Petitioner seeks O-1 nonimmigrant 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 pursuant to 8 C.F.R. § 214.2(o)(3)(iii)(A)-(B).

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. 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).

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 sustained national or international acclaim such that the individual is among the small percentage at the very top of the field of endeavor. See section 101(a)(15)(o)(i) of the Act and 8 C.F.R. § 214.2(o)(3)(ii), (iii).[1]

II. ANALYSIS

The Beneficiary indicates employment as a badminton coach with the [redacted] Badminton Club [redacted] since 2017. The petitioning entity, the new owner of that club, seeks to employ the Beneficiary as its head coach for a period of three years. The record shows the Beneficiary's background in athletics includes competitive badminton and badminton instruction. As a player, he competed in amateur competitions as a member of the [redacted] badminton club in [redacted] Indonesia until a career-ending injury in 1992. Between 1992 and 2017 the Beneficiary was the head coach of [redacted] The Petitioner's description of the proffered position indicates that the Beneficiary's duties for its badminton club will include overseeing all badminton programs and coach performance, participating in coaching activities, creating instructional materials, and recruiting potential badminton players. The Petitioner's itinerary for 2019 and 2020 provides that the Beneficiary will be the head coach of its junior team. It identifies several USA Badminton (USAB)[2] junior tournaments at which he will coach and two USAB adult tournaments at which he will compete.

A. Evidentiary Criteria

Because the Petitioner has not indicated or established that the Beneficiary has received a major, internationally recognized award, it must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B)(1)-(8). In denying the petition, the Director determined that the Petitioner did not satisfy any of the initial evidentiary criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B)(1)-(8). On appeal, the Petitioner maintains that the exhibits satisfy four of those criteria. After reviewing all the evidence in the record, we find that the exhibits do not satisfy at least three of the evidentiary criteria at 8 C.F.R. § 214.2(o)(3)(iii)(B). We will analyze the evidence submitted under each of those criteria below.[3]

> 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's initial submission did not address this criterion. Within the Petitioner's response to the Director's request for evidence (RFE), it claimed that it satisfies this criterion through 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 record indicates that USAB is the national governing body for the sport of badminton in the United States.

[3] On appeal, the Petitioner does not claim to meet any of the regulatory categories of evidence not discussed in this decision.

Beneficiary's memberships with the Badminton Association of Indonesia (PBSI)[4] and USAB. In order to meet this criterion, the Petitioner must show that the Beneficiary's membership in the association is based on being judged by recognized national or international experts as having outstanding achievements in the field for which classification is sought. Membership requirements based on employment or activity in a given field, minimum education or experience, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion as such requirements do not constitute outstanding achievements. Further, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association's overall reputation. The Director concluded that while the Petitioner had established the Beneficiary's coach membership in PBSI and USAB, it had not shown that those organizations require outstanding achievements of their members as judged by recognized national or international experts in their disciplines or fields. On appeal, the Petitioner maintains that the documentation submitted establishes that membership as a coach PBSI and USAB requires "extraordinary ability." Upon review, the record is insufficient to demonstrate that the Petitioner meets this criterion.

The Petitioner submitted the Beneficiary's coaching certificate dated 2012 from PBSI [redacted] acknowledging his authority for "Coaching Province Level," a decision letter indicating that between 2012 and 2016 the Beneficiary was a coach on the PBSI [redacted] management team, and his PBSI [redacted] membership card dated 2017 with the notation "Position: Coaching Field." Further, the Petitioner provided a letter from [redacted] board chairman of PBSI [redacted], asserting that the Beneficiary "was granted PBSI National Level Coaching Certification in 2012" and stating the requirements to become "a PBSI certified National Level Coach . . . . the highest coaching certification that one can be granted in Indonesia." However, [redacted]'s assertions regarding the level of the Beneficiary's coaching certification are inconsistent with the aforementioned coaching certificate indicating that in 2012 the Beneficiary was authorized to coach at the province-level. As there is conflicting evidence regarding the level of the Beneficiary's coaching certification, the Petitioner has not sufficiently established, as asserted by [redacted] that the Beneficiary was granted PBSI national level coaching certification in 2012. In addition, we note that the record does not contain any evidence that candidates for PBSI province-level coach membership undergo a process in which they are judged by national or international experts based on their outstanding individual achievements.

Further, even if the Petitioner had established the Beneficiary's national-level coach membership in PBSI [redacted]'s letter does not sufficiently establish that such membership requires outstanding achievements as judged by recognized national or international experts in badminton. [redacted]'s letter indicates that to achieve PBSI national-level coaching certification applicants must complete the course and coaching code of conduct, pass the assessment by the "PBSI Evaluation Panel of relevant coaches/sport scientists with badminton experience," and meet two of four criteria, which include having trained "at least 3 players who reached national team level for at least 3 years for each player or a player with top 500 world ranking in BWF," ten years of experience coaching "elite players," developing training programs, and creating "innovative" long-term developmental programs. His letter indicates that obtaining a national-level coaching certification requires an applicant to go through a certain educational program and have a certain level of professional experience. The

[4] The record reflects that PBSI is the national governing body for the sport of badminton in Indonesia, and the governing association of the Indonesian national badminton team.

Petitioner has not established that to qualify for that certification, a candidate must have "outstanding achievements." [redacted]'s letter does not establish sufficiently how those requirements rise to the level of outstanding achievements and that the Beneficiary's membership qualifications were judged by recognized national or international experts in the field.

Regarding the Beneficiary's coach membership in USAB, the Petitioner provided the Beneficiary's USAB membership card indicating he is a certified coach, his USAB Level 1 [redacted] Coach certificate dated 2018, and screenshots from the USAB website describing the requirements for attaining level one (1) certification as the Beneficiary did, through satisfactory completion of the level (1) course. The screenshots indicate that, in addition to attending the course and completing post-course assignments, an applicant must meet two of four course prerequisites, which include training high performance players, assisting or leading a high performance program, being a USAB Level 3 [redacted] for at least one year, or being a former or current international player. That documentation shows that coach members are certified as level (1) through (4) coaches by USAB. As noted by the Director, based upon the information in the record, there are three levels above the Beneficiary's level 1 certification. Further, the certification documentation does not confirm that USAB "require[s] outstanding achievements of [its] members, as judged by recognized national or international experts in their disciplines or fields." Based on the above reasons, the Petitioner has not shown that the Beneficiary satisfies 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 Petitioner maintains that the Beneficiary satisfies this criterion based on published materials pertaining to him as a badminton player and coach. The Petitioner initially submitted four print newspaper articles about the Beneficiary dated [redacted] 2017 from Indonesian-language publications. An article from the print newspaper Jawa Pos states that the Beneficiary received an invitation to coach in the United States at [redacted], and that he had previously coached junior players abroad with the [redacted] badminton club in [redacted] Thailand. Articles from the print newspapers Memorandum and Radar Surabaya and the online edition of SmashYes indicate that the Beneficiary has been coaching at [redacted] since his 1992 [redacted] injury, that he coached several players who went on to play for the Indonesian national team, and that he coached the [redacted] team when [redacted] competed in the national championship in [redacted] in 2002. Those articles also indicate that the Beneficiary coached [redacted] to a third-place finish in the 2014 [redacted] Badminton, which the Beneficiary described as "quite a surprise," as [redacted] "with unseeded material," was able "to beat the world class athletes."

On appeal, the Petitioner submits an additional article about the Beneficiary dated [redacted] 2017 from the online version of Jatim Times, relating that the Beneficiary coached [redacted] and indicating that under his tutelage and "with mediocre material [redacted] was able to penetrate the semifinals of the [redacted] Badminton Indonesia in 2014." The Petitioner provides general information from the websites of Jawa Pos, Memorandum, Radar Indonesia, and Jatim Times, however, that documentation does not contain information establishing that the print edition of Jawa Pos, Memorandum, and Radar Surabaya, or the online edition of Jatim Times qualifies as major

media.[5] In addition, the article from SmashYes is not accompanied by any evidence that that publication qualifies as a professional publication, major trade publication, or other major media in Indonesia. The Petitioner also did not include the required author of the above-referenced material.

Further, we note that although the Petitioner's RFE response included a 1990 article from the print newspaper Kompas, the submitted article is not about the Beneficiary; it was written about the quarterfinal round of the 1990 [redacted] Badminton [redacted] Championship in [redacted] in which the Beneficiary placed second in [redacted] competition. The article also discusses the results of the women's singles match. Articles that are not about a beneficiary do not fulfill this regulatory criterion. See, e.g., Negro-Plumpe v. Okin, 2:07-CV-820-ECR-RJJ at *1, *7 (D. Nev. Sept. 8, 2008) (upholding a finding that articles regarding a show are not about the actor). For these reasons, the Petitioner did not establish 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).

On appeal, the Petitioner contends that the Beneficiary's elite team training plan that he developed for [redacted] based on his innovative badminton training techniques, is an original contribution of major significance in the field of badminton coaching. It provided the elite team training plan and a number of testimonial letters. As a preliminary matter, we note that this criterion requires "scientific, scholarly, or business-related contributions." Here, the Petitioner has not demonstrated how the Beneficiary's elite team training plan is considered to be a scientific, scholarly, or business-related contribution. Rather, as it has indicated, that item is in the field of athletic coaching.

Notwithstanding the above, the Petitioner provided two letters from [redacted] owner of [redacted] who indicates the club is composed of 80 athletes from youth to adult and that the Beneficiary has been the club's head coach since 1992. He states that the Beneficiary coached the [redacted] team and trained athletes at [redacted] who went on to join the Indonesian national team, including [redacted], [redacted] and [redacted] He also asserts that the [redacted] is still using the Beneficiary's [redacted] and module training systems, and that those training programs "are now widely used by coaches in Indonesia." He further provides that [redacted]s Badminton Academy in India used the Beneficiary's training systems successfully in junior competition when he was a visiting coach with that academy in 2017.

The Petitioner also provided several additional letters from [redacted] confirming that the Beneficiary was a coach of [redacted] or more than 10 years and the coach of the [redacted] badminton team between 2001 and 2004. He states that the Beneficiary's [redacted] training program "is very popular in Indonesian local clubs, especially in [redacted]

[redacted] a former badminton men's singles player and owner of [redacted] in [redacted], confirms that the Beneficiary was his trainer until age 17, which the record indicates was in 2001. He indicates that he was a member of the Indonesian national team from 2004 to 2015, during which time he was a 2004 [redacted] bronze medalist, a 2007 [redacted] Championship silver medalist, and a 2010 [redacted] Open gold medalist. He praises the Beneficiary's

[5] To qualify as major media, the publication should have significant national or international distribution.

"innovative' modules training system, comprised of "physical training, basic techniques, passive techniques and drills," and indicates that "[m]y own club is using a lot of coaching techniques from [the Beneficiary]."

The record also contains two letters from a men's doubles badminton coach with the Indonesian national team, who states that the Beneficiary has developed innovative training plans as a coach at , including mock games and training in endurance, physical strength, and fundamentals, and has sent many student athletes to the national team. He provides that from 2000 to 2011, trained at where the Beneficiary provided "a rigorous and disciplined" training program. indicates he coached on the national team beginning in 2012. He summarizes some of competitive successes in men's competition, such as being 2013 Open gold medalist, 2015 Open gold medalist, and 2017 Open gold medalist. He claims that the Beneficiary's "innovation on match preparation has been widely accepted and applied by many Indonesian coaches."

The Petitioner also submitted two letters from , a badminton coach with the Indonesian national team, who indicates he coached athletes on the national team who were previously trained by the Beneficiary, including and explains that he coached beginning in 2005, after the Beneficiary trained him between 2001 and 2003 on the badminton team. In addition, coached beginning in 2010, after his training with the Beneficiary at between 1999 and 2005. He notes that was the 2016 gold medalist in the category, and that was the 2014 gold medalist. provides that the Beneficiary introduced training to improve the footwork speed and stability of young athletes, and that "most coaches in started to use it as a regular footwork training method."

The Petitioner also provided letters from the parents of two of the Beneficiary's students at providing highlights of their children's achievements in youth competition under the Beneficiary's tutelage and praising his training regimen, specifically, his footwork, , and modules training systems. In addition, the Beneficiary's student since 2018, credits his skills" with her advancement to A-level competitions in regional tournaments.

In order to satisfy this criterion, the Petitioner must establish not only that the Beneficiary has made original contributions but that they have been of major significance in the field. For example, a petitioner may support the record with evidence that a beneficiary's contributions have been widely implemented, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field. Here, while the letters indicate that the Beneficiary's training plan has had an influence on , and other teams where he has coached, it does not establish the plan's significance to the greater field of badminton and coaching. Demonstrating ability as a skilled badminton coach is not itself a contribution of major significance; rather, the Petitioner must demonstrate that the Beneficiary has impacted the field of badminton or badminton coaching as a whole. Cf. Visinscaia v. Beers, 4 F. Supp. 3d 126, 134-135 (D.D.C. 2013) (upholding a finding that a

ballroom dancer had not met this criterion because she did not demonstrate her impact in the field as a whole).

When viewed in its totality, the record does not include documentary evidence showing how the Beneficiary's badminton coaching has already made a major impact on the field, or that his techniques have garnered widespread attention in the field for obtaining significant results to which other coaches aspire. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. Matter of Caron Int'l, 19 I&N Dec. 791, 795 (Comm'r 1988). However, USCIS is ultimately responsible for making the final determination regarding an individual's eligibility for the benefit sought. Id. Upon review, the preceding letters of recommendation demonstrate that the Beneficiary's work has earned the respect and admiration of those with whom he has worked and collaborated, but they do not establish that he has made original scientific, scholarly, or business-related contributions of major significance in his field. Similarly, the media coverage discusses the Beneficiary's competitive and coaching accomplishments without suggesting that he has had an impact on the field.

The Petitioner also submitted the Beneficiary's aforementioned 2018 USAB Level 1 Coach certificate, 2012 PBSI coaching certificate, and completion certificates for badminton coaching courses dated 2001 and 2002. The Petitioner has not demonstrated how those coach certification and course completion certificates represent original scientific, scholarly, or business-related contributions of major significance in the field of badminton coaching.

Further, while several letters emphasize that the Beneficiary has coached players who went on to successfully compete as members of the Indonesian national team, the evidence does not establish how the success of those athletes would be attributed to the Beneficiary rather than to the senior and head coaches on the national team. The letters do not provide specific examples of results for athletes primarily under the Beneficiary's tutelage at the time of those results, or otherwise explain the Beneficiary's impact in the field. In light of the above, the Petitioner has not provided sufficient material to establish that the Beneficiary meets 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 scope of this evidentiary criterion focuses on the relative importance of the Beneficiary's position within the scope of the organizations that have employed him. In support of this criterion, the Petitioner provided an additional letter from stating that the Beneficiary was the head coach of between 1992 and 2017, whose primary object was "to train and prepare junior badminton players for the Indonesian National Team." He indicates that the club is the second-largest badminton club in played in the semi-final of the 2014 Badminton team competition, and sent "countless" athletes to the national team. He asserts that the club has a distinguished organization.

Upon review, the record shows that the Beneficiary has been employed in a critical or essential capacity for as its head coach since 1992. However, the documentation submitted does

not establish sufficiently that the organization has a distinguished reputation in the field. In support of this criterion, the Petitioner provided articles dated 2014 from the websites www.olahraga.kompas.com and www.ekonomi.kompas.com, reporting that [redacted] reached the semifinal round in [redacted] Badminton 2014 and quoting the team's coach [redacted] as stating "This is the first time be a part [redacted] Incredible battle from my players[.]" Articles from the websites of [redacted], [redacted] and www.antarajatim.com report the results of that semifinal round and quote the Beneficiary, identified as the club's manager, praising [redacted]'s teamwork.[6] As discussed previously, other articles indicate that the Beneficiary's achievement in having coached the team to a third-place finish in the 2014 [redacted] Badminton was described by him as "quite a surprise," as [redacted] "with unseeded material" was able "to beat the world class athletes." Further, the additional article the Petitioner offers on appeal characterizes the team as "mediocre." Viewed in its totality, the documentation submitted does not establish sufficiently that the organization has a distinguished reputation in the field.

Based on the forgoing, the Petitioner has not shown that the Beneficiary satisfies this criterion.

B. Prior Approval O-1 Nonimmigrant Status

The record indicates that USCIS has previously approved at least one petition for O-1 status filed on behalf of the Beneficiary. In the present matter, the Director reviewed the record of proceeding and concluded that the Petitioner did not meet all eligibility requirements for the requested classification. Based on the lack of required evidence of eligibility in the current record, we find that the Director was justified in denying the instant petition. We are not required to approve applications or petitions where eligibility has not been demonstrated because of prior approvals that may have been erroneous. See, e.g., Matter of Church Scientology International, 19 I&N Dec. 593, 597 (Comm'r 1988). Further, our authority over the service centers is comparable to the relationship between a court of appeals and a district court. Even if a service center director has approved a nonimmigrant petition on behalf of the Beneficiary, we are not be bound to follow the contradictory decision of a service center. Louisiana Philharmonic Orchestra v. INS, No. 98-2855, 2000 WL 282785, *1, *3 (E.D. La.), aff'd, 248 F.3d 1139 (5th Cir. 2001), cert. denied, 122 S.Ct. 51 (2001).

III. CONCLUSION

The record does not satisfy, as required, the evidentiary criteria applicable to individuals of extraordinary ability in athletics: 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). Consequently, the Petitioner has not established that the Beneficiary is eligible for the O-1 visa classification as an individual of extraordinary ability. The 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.

[6] In addition, in a 2016 article from the website rrri.co.id, [redacted] provides that badminton players from [redacted] were sparring partners with [redacted] players before a regional tournament.