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## Gold Medalist's Green Card Loss Shows Hazards For Coaches

By **Allissa Wickham**

Law360, New York (September 21, 2015, 7:43 PM ET) -- A district court's refusal to overturn a green card denial for an Olympic gold medal-winning gymnast is a stern reminder of the challenges athletes face when hoping to work permanently in the U.S. as coaches, underscoring the importance of applying while sports stars are still competing, experts say.

Twenty-seven years after Natalia Laschonava won a gold medal in gymnastics for the Soviet Union, she suffered a stinging loss in Ohio federal court when U.S. District Judge Algenon Marbley **declined to reverse** the denial of a green card application filed on her behalf by a training facility.

At the heart of the matter is the trouble former star athletes can face when hoping to qualify for a green card after they've shifted gears to coaching — especially if they're seeking permanent residency under the EB-1 category's high standard requiring immigrants to have "extraordinary ability" in their field.

While Laschonava had been seeking a visa to work as a coach, her former employer filed the petition based her on extraordinary ability in gymnastics, according to the court. U.S. Citizenship and Immigration Services disagreed with this approach, saying the company hadn't provided enough evidence of her sustained acclaim as a coach.

Once an athlete like Laschonava leaves her sport, experts say, she can no longer rest on her laurels in athletics and must show that she's gained extraordinary ability in coaching itself — although a gold medal can certainly help.

"The achievements as an athlete help show that [acclaim] is sustained, but you still have to show that they are extraordinary in their specific occupation," said P. Christopher Jaensch of the Jaensch Immigration Law Firm. "So, they still needed to focus on just her achievements as a coach."

Since it can be hard for athletes to build fame in the coaching arena, experts recommend they apply for green cards while they're still competing, allowing athletes to point to their sports achievements as proof of extraordinary ability.

"A lot of times what we'll do is we'll really push the player, especially as they're getting older, to apply before they retire," said Keith Pabian of Pabian Law LLC. "And so, a lot of it is communication throughout their career and really stressing the importance of doing it then."

Even rookies should be educated about their green card options, according to Colleen

Caden of Pryor Cashman LLP, who said the ruling highlighted the importance of consulting with professional athlete clients on how the process works.

If an athlete fails to file an extraordinary-ability EB-1 petition before moving into coaching, Jaensch recommends that he or she start competing again in order to take advantage of past achievements.

"We did a boxer ... who had been very well-recognized in the '60s and '70s, and he'd stayed involved in the field, but he was just doing different things, [like] working with boxers," Jaensch said. "And he started boxing again, as an older guy, and we got him an EB-1 green card."

However, if picking the sport back up isn't an option, newer coaches may simply want to try their best to garner some star power in this new area before submitting a green card petition. Audrea Golding of Fragomen Worldwide said she will sometimes tell clients to seek out publicity before filing.

"Try and get into the newspapers," Golding said. "Try and get online — to be interviewed by people in the coaching industry saying, 'This famous gymnast from back in the day is now in the U.S., and this is what she's been doing ... turning around this small-time club.'"

And if all else fails, experts say, it may make sense to seek a green card under the EB-2 or EB-3 categories, which are less stringent. However, these cases have their drawbacks. Unlike the EB-1 category, Pabian said, these alternatives don't allow would-be immigrants to self-petition, meaning they have to rely on an employer sponsor.

They also require petitioners to go through the lengthy labor-certification process, which adds extra costs that sports organizations may not want to pay, according to Pabian. And, Caden noted, their lengthy wait times can add a risk that the foreign coach may not have a job when the petition is finally adjudicated, two years down the road.

Ghassan "Gus" Shihab, of the Law Firm of Shihab & Associates Co. LPA, who took on Laschonava's case pro bono after her previous attorney failed to secure a visa, said he does recommend that his clients pursue alternative strategies, especially since applications requiring labor certifications can be filed simultaneously with EB-1 petitions.

"If they really wanted to file a petition as an extraordinary ability, I would say do it, but don't put all your eggs in that basket," Shihab said. "Let me do an alternative strategy ... like a safety net, so that if this doesn't work, you don't fall all the way down."

As for Laschonava, the future remains uncertain, as she currently doesn't have any work authorization and is out of status, according to Shihab. He said she wants to appeal the Ohio court's ruling, but Shihab was uncertain whether the gymnastics facility would want to proceed, as it no longer employs her.

Shihab said that he doubted that the government would begin deportation proceedings, but that Laschonava doesn't even have a driver's license and will essentially have to remain idle.

"When a gold medalist from Belarus comes to our country and wants to really contribute, and we do that, it makes no sense to me," he said.

--Editing by Mark Lebetkin and Kat Laskowski.