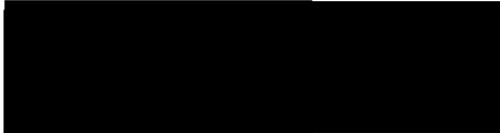


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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



B2

DATE: **JUN 25 2012** Office: TEXAS SERVICE CENTER FILE:

IN RE: Petitioner:
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner seeks classification as an “alien of extraordinary ability” in education, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A) as a “Christian scholar and educator.”¹ The director determined that the petitioner had not established the requisite extraordinary ability and failed to submit extensive documentation of his sustained national or international acclaim.

Congress set a very high benchmark for aliens of extraordinary ability by requiring through the statute that the petitioner demonstrate the alien’s “sustained national or international acclaim” and present “extensive documentation” of the alien’s achievements. *See* section 203(b)(1)(A)(i) of the Act and 8 C.F.R. § 204.5(h)(3). The implementing regulation at 8 C.F.R. § 204.5(h)(3) states that an alien can establish sustained national or international acclaim through evidence of a one-time achievement of a major, internationally recognized award. Absent the receipt of such an award, the regulation outlines ten categories of specific objective evidence. 8 C.F.R. § 204.5(h)(3)(i) through (x). *The petitioner must submit qualifying evidence under at least three of the ten regulatory categories of evidence to establish the basic eligibility requirements.*

On appeal, counsel states that the petitioner meets at least three of the ten regulatory categories of evidence at 8 C.F.R. § 204.5(h)(3). More specifically, counsel asserts that the petitioner meets the regulatory categories of evidence at 8 C.F.R. §§ 204.5(h)(3)(i), (iii), (v), and (viii). For the reasons discussed below, the AAO will uphold the director’s decision.

I. LAW

Section 203(b) of the Act states, in pertinent part, that:

(1) Priority workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with extraordinary ability. -- An alien is described in this subparagraph if --

(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,

¹ According to information on the Form I-140, Immigrant Petition for Alien Worker, the petitioner was last admitted to the United States on October 10, 2008 as a B-2 nonimmigrant visitor for pleasure.

(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry into the United States will substantially benefit prospectively the United States.

U.S. Citizenship and Immigration Services (USCIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* H.R. 723 101st Cong., 2d Sess. 59 (1990); 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). The term "extraordinary ability" refers only to those individuals in that small percentage who have risen to the very top of the field of endeavor. *Id.*; 8 C.F.R. § 204.5(h)(2).

The regulation at 8 C.F.R. § 204.5(h)(3) requires that the petitioner demonstrate the alien's sustained acclaim and the recognition of his or her achievements in the field. Such acclaim must be established either through evidence of a one-time achievement (that is, a major, international recognized award) or through the submission of qualifying evidence under at least three of the ten categories of evidence listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

In 2010, the U.S. Court of Appeals for the Ninth Circuit (Ninth Circuit) reviewed the denial of a petition filed under this classification. *Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). Although the court upheld the AAO's decision to deny the petition, the court took issue with the AAO's evaluation of evidence submitted to meet a given evidentiary criterion.² With respect to the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vi), the court concluded that while USCIS may have raised legitimate concerns about the significance of the evidence submitted to meet those two criteria, those concerns should have been raised in a subsequent "final merits determination." *Id.* at 1121-22.

The court stated that the AAO's evaluation rested on an improper understanding of the regulations. Instead of parsing the significance of evidence as part of the initial inquiry, the court stated that "the proper procedure is to count the types of evidence provided (which the AAO did)," and if the petitioner failed to submit sufficient evidence, "the proper conclusion is that the applicant has failed to satisfy the regulatory requirement of three types of evidence (as the AAO concluded)." *Id.* at 1122 (citing to 8 C.F.R. § 204.5(h)(3)).

Thus, *Kazarian* sets forth a two-part approach where the evidence is first counted and then considered in the context of a final merits determination. In this matter, the AAO will review the evidence under the plain language requirements of each criterion claimed. As the petitioner did not submit qualifying evidence under at least three criteria, the proper conclusion is that the petitioner has failed to satisfy the regulatory requirement of three types of evidence. *Id.*

² Specifically, the court stated that the AAO had unilaterally imposed novel substantive or evidentiary requirements beyond those set forth in the regulations at 8 C.F.R. § 204.5(h)(3)(iv) and 8 C.F.R. § 204.5(h)(3)(vi).

II. ANALYSIS

A. Evidentiary Criteria³

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

The petitioner submitted a Doctor of Divinity degree (2010) from the Cambridge Theological Seminary, Byesville, Ohio stating: "For Having Completed all Studies and Qualifications, as Required by the Bishop & Council, for this 'Title & Degree' of Doctorate."⁴ Academic study is not a field of endeavor, but, rather, training for future employment in a field of endeavor. An advanced degree may indicate that the petitioner has fulfilled certain post-baccalaureate academic requirements at a particular school, but it does not constitute a nationally or internationally recognized prize or award for excellence in the field. Significantly, this office has held, in a precedent decision involving a lesser classification than the one sought in this matter, that academic performance, measured by such criteria as grade point average, is not a specific prior achievement that establishes the alien's ability to benefit the national interest. *Matter of New York State Dep't. of Transp.*, 22 I&N Dec. 215, 219, n.6 (Comm'r 1998). Thus, academic performance is certainly not comparable to the awards criterion set forth at 8 C.F.R. § 204.5(h)(3)(i), designed to demonstrate an alien's eligibility for this more exclusive classification.

The petitioner submitted a July 19, 2009 Gold Award Certificate from Glory Life Church, London, United Kingdom stating: "This award is given to [the petitioner] for distinguish [sic] service to the body of Christ and to this church through Literature, Christian education and Selfless contribution to humanity." The petitioner also submitted a "Special Award Certificate" from International Central Gospel Church, Silver Spring, Maryland stating: "This special award of honor is given to [the petitioner] for distinguished and sacrificial service to the body of Christ through teaching, preaching and outstanding Christian literature which has impacted the lives of many around the world including this church." The preceding awards reflect institutional recognition by the Glory Life Church and the International Central Gospel Church rather than nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

The petitioner submitted an award certificate from Ceval Consult, Accra, Ghana (2007) stating:

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

⁴ "The Association of Theological Schools (ATS) is a membership organization of more than 250 graduate schools in the United States and Canada that conduct post-baccalaureate professional and academic degree programs to educate persons for the practice of ministry and for teaching and research in the theological disciplines. The Commission on Accrediting of ATS accredits institutions and approves degree programs offered by accredited schools." See <http://www.ats.edu/about/Pages/default.aspx> accessed on June 5, 2012, copy incorporated into the record of proceedings. The AAO notes that the Cambridge Theological Seminary is not listed as an accredited member of the ATS. See <http://www.ats.edu/MemberSchools/Pages/Alpha.aspx> accessed on June 5, 2012, copy incorporated into the record of proceedings.

This Award is respectfully presented to [the petitioner] for his immense contribution to Evangelism, Contemporary Biblical Exposition through media, Seminars and Conferences. It is also in celebration of his immense assistance and resource contribution service to the Ceval Gospel Awards, we celebrate you as a special Ceval Awards Personality.

With regard to the petitioner's Doctor of Divinity degree from the Cambridge Theological Seminary, Gold Award Certificate from Glory Life Church, Special Award Certificate from International Central Gospel Church, and Ceval Consult award, the petitioner did not submit evidence of the national or international *recognition* of his particular awards, such as national or widespread local coverage of his awards in religious publications or general media. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i) specifically requires that the petitioner's awards be nationally or internationally *recognized* in the field of endeavor and it is his burden to establish every element of this criterion. In this case, there is no documentary evidence demonstrating that the petitioner's awards were recognized beyond the presenting organizations and therefore commensurate with nationally or internationally recognized prizes or awards for excellence in the field. Accordingly, the petitioner has not established that he meets this regulatory criterion.

Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.

In general, in order for published material to meet this criterion, it must be primarily about the petitioner and, as stated in the regulations, be printed in professional or major trade publications or other major media. To qualify as major media, the 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.⁵

The petitioner submitted an advertisement entitled "Kingslight Chapel Int. Inc. WE ARE A YEAR OLD" (2010) in the *New Ghanaian*, a community newspaper serving Ghanaians in the Washington, D.C., Maryland, and Virginia regions. The advertisement invites readers to attend worship services at Kingslight Chapel International church where the petitioner is the "Senior Pastor and General Overseer." The plain language of this regulatory criterion requires "published material about the alien" including "the title, date and author of the material." The preceding advertisement, which is not the result of independent media reportage, does not meet the preceding requirements. Further, there is no circulation evidence showing that *New Ghanaian* qualifies as a form of major media.

⁵ 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, for instance, cannot serve to spread an individual's reputation outside of that county.

The petitioner submitted a review of his book *Goliath Can Fall* in the February 11, 2006 issue of *Daily Graphic*, but the book review (consisting of 23 paragraphs) only briefly mentions the petitioner in the first few sentences. The petitioner submitted another book review of *Goliath Can Fall* by reviewer [REDACTED] however, the date and title of the newspaper in which [REDACTED] review appeared were not identified as required by the plain language of this regulatory criterion. [REDACTED] review of the petitioner's book was also posted on the "Ghana Web Blog" at www.ghanaweb.com, but the date of the online article was not identified. The petitioner submitted an additional book review by [REDACTED] discussing his book [REDACTED] review of the preceding book was posted on the Kingslight Chapel International's website, but the date of the online article was not identified as required by this regulatory criterion. The preceding book reviews are not published material about the petitioner. Instead, they are articles about his books [REDACTED]. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(iii) requires that the published material be "about the alien." See, e.g., *Accord Negro-Plumpe v. Okin*, 2:07-CV-820-ECR-RJJ at *1,*7 (D. Nev. Sept. 8, 2008) (upholding a finding that articles about a show are not about the actor). Compare 8 C.F.R. § 204.5(i)(3)(i)(C), which requires evidence "about the alien's work." It cannot be credibly asserted that the submitted book reviews are "about" the petitioner. The petitioner also submitted a February 18, 2006 article in *Daily Graphic* entitled "[REDACTED] launches two books," but the article includes only four sentences mentioning the petitioner. In addition to the preceding deficiencies, there is no documentary evidence (such as readership data or circulation evidence) showing that the "Ghana Web Blog" at www.ghanaweb.com, the Kingslight Chapel International's website, and the *Daily Graphic* qualify as major media.

In light of the above, the petitioner has not established that he meets this regulatory criterion.

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

In the director's decision, she determined that the petitioner failed to demonstrate original scholarly contributions of major significance in the field of Christian education. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(v) requires "[e]vidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of *major significance* in the field." [Emphasis added.] Here, the evidence must be reviewed to see whether it rises to the level of original scholarly contributions "of major significance in the field." The phrase "major significance" is not superfluous and, thus, it has some meaning. *Silverman v. Eastrich Multiple Investor Fund, L.P.*, 51 F. 3d 28, 31 (3rd Cir. 1995) quoted in *APWU v. Potter*, 343 F.3d 619, 626 (2nd Cir. Sep 15, 2003).

The petitioner submitted evidence of his authorship of six books, materials pertaining to his speaking engagements, and letters of support discussing his work.

[REDACTED] Honeycomb Publications, Accra, Ghana, states:

We are proud to be the publishers of all the six ground breaking and inspiring books so far authored by [the petitioner] and the details are as follows:

<u>BOOK</u>	<u>YEAR OF PUBLICATION</u>
1. [REDACTED]	2004
2. [REDACTED]	2005
3. [REDACTED]	2006
4. [REDACTED]	2007
5. [REDACTED]	2007
6. [REDACTED]	2008

All the books especially [REDACTED] [REDACTED] have done extremely well. Over the period of the marketing of these books, book launches/signings were organized across the length and breadth of Ghana as well in the United Kingdom and the USA. [REDACTED] alone sold over 50,000 copies in Ghana and about 10,000 copies in foreign lands such as Europe and America. With a new approach of connecting with the major international players in the industry the potential of these books is simply too great.

We at Honeycomb publications believe we have discovered an unusual author with extraordinary ability and national recognition and just about to catch the world's attention. One of his uniqueness stems from the fact that though he is a Pharmacist by profession, he writes like somebody trained in the arts.

The self-serving comments from the petitioner's publisher are not sufficient to demonstrate that the petitioner's books equate to original scholarly contributions of major significance in the field. USCIS need not rely on self-promotional material. *See Braga v. Poulos*, No. CV [REDACTED] (C. D. CA July 6, 2007) *aff'd* 2009 WL [REDACTED] (9th Cir. 2009) (concluding that the AAO did not have to rely on self-serving assertions on the cover of a magazine as to the magazine's status as major media). Regardless, the petitioner has not established that selling 60,000 copies of [REDACTED] [REDACTED] is indicative of an original contribution of "major significance" in the field of Christian education. Further, there is no documentary evidence showing the unit sales for [REDACTED] [REDACTED] and [REDACTED]. Moreover, there is no documentation indicating that the petitioner's books have attracted significant attention from independent religious scholars, that his books are frequently used as a part of renowned Christian university curricula, or that his books otherwise qualify as original scholarly contributions of major significance in the field. [REDACTED] comments that "the potential of [the petitioner's] books is simply too great." [REDACTED] expectations regarding the future impact or potential sales of the petitioner's books do not constitute evidence that they were already majorly influential at the time of filing the petition. The petitioner must demonstrate his eligibility as of the filing date. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). A petition cannot be approved at a future date after the petitioner becomes eligible under a new set of facts. *Matter of Izummi*, 22 I&N Dec. 169, 175 (Comm'r 1998). That decision further provides, citing *Matter of Bardouille*, 18 I&N Dec. 114 (BIA 1981), that USCIS cannot "consider facts that come into

being only subsequent to the filing of a petition.” *Id.* at 176. Consistent with these decisions, a petitioner cannot secure a priority date in the hope that his work will subsequently prove influential. Ultimately, in order to be meritorious in fact, a petition must meet the statutory and regulatory requirements for approval as of the date it was filed. *Ogundipe v. Mukasey*, 541 F.3d 257, 261 (4th Cir. 2008). To hold otherwise would have the untenable result of an alien securing a priority date based on the speculation that his work might prove influential while the petition is pending.

[REDACTED], Revelation Temple, Burtonsville, Maryland, states:

I . . . write to introduce my friend and yoke-fellow [the petitioner]. I have known [the petitioner] for many years as an outstanding preacher and a prolific writer of international standing.

His unique perspective on the Christian faith is copiously evident in the six (6) inspiring and ground breaking books he has so far authored.

He has been a regular speaker in my church and the saints really appreciate his ministry and read his books with many testimonies of the power of God following.

[The petitioner’s] style, gifts, knowledge and depths of understanding on the Holy Scriptures, presents him as a unique speaker, a rare quality that is in dire need across the body of Christ worldwide.

[REDACTED] comments that the petitioner’s “style, gifts, knowledge and depths of understanding on the Holy Scriptures” demonstrate that he is a “unique speaker” of “rare quality.” Merely having a diverse skill set is not a contribution of major significance in and of itself. Rather, the record must be supported by documentary evidence that the petitioner has already used those unique skills to impact the field at a significant level in an original way. Furthermore, assuming the petitioner’s skills are unique or rare, the classification sought was not designed merely to alleviate skill shortages in a given field. In fact, that issue properly falls under the jurisdiction of the Department of Labor through the alien employment certification process. *See Matter of New York State Department of Transportation*, 22 I&N Dec. 215, 221 (Comm’r 1998).

[REDACTED] World Outreach Ministries, Elizabeth, New Jersey, states:

I have personally known [the petitioner] over the years as an astute preacher, teacher, motivational speaker and industrious entrepreneur. He is a Pharmacist by profession and Pastor by call. As a prolific writer of international repute, his unique ministry and perspective of the Christian faith is evidenced in the six (6) books he has to his credit.

[The petitioner] is a regular speaker in my church and our annual convention. He always leaves an indelible mark of truth and practical demonstration of the power of the Holy Ghost. His style, gifts and depth of knowledge of the Holy Scriptures constantly engages him in conferences, seminars, conventions etc. in Ghana, UK and especially in the US.

Talk about the originality of the church of Christ, Christ-centered, Kingdom-focused and undiluted presentation of the infallible Word of Truth and [the petitioner] stands tall. Hence, the great demand on him and his ministry internationally. I consider him a power house and a force to reckon with. Testimonies in the U.S. are palpable.

█ comments that the petitioner has authored six books and spoken at World Outreach Ministries, but he does not provide specific examples of how the petitioner's work has substantially impacted Christian religious education, has influenced the work of scholars in the field, or otherwise equates to original contributions of "major significance" in the field. Publications and presentations are not sufficient evidence under 8 C.F.R. § 204.5(h)(3)(v) absent evidence that they were of "major significance." *Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9th Cir. 2009) *aff'd in part* 596 F.3d 1115 (9th Cir. 2010). In 2010, the *Kazarian* court reaffirmed its holding that the AAO did not abuse its discretion in finding that the alien had not demonstrated contributions of major significance. 596 F.3d at 1122. Thus, there is no presumption that every book or religious speaking engagement is a contribution of major significance; rather, the petitioner must document the actual impact of his publication or speaking presentation in the field.

█ Pentecost International Worship Center, a one-hundred twenty member multi-ethnic church in Tempe, Arizona, states:

One of the few people who have been a tremendous source of encouragement to me and the leadership of my church is [the petitioner]. He has been a guest speaker in our church for a number of times.

His ability to utilize the word of God to encourage, build up the total man, and motivate people to better themselves is simply unrivaled. [The petitioner's] heart for ministry and passion to affect the spiritual lives of people is evident in his writings. He is a prolific author and have [sic] written six life-changing books.

His knowledge, understanding of scripture and its application combined with a God-given gift of eloquence make him a rare kind. During this era where many are giving up hope and even more are facing hard times, [the petitioner's] gifts will be needed across the country. I have no doubt that many churches will benefit from his ministry.

* * *

He will be a wonderful addition to the ecclesiastical talent pool in the United States.

In the same manner as [REDACTED] and [REDACTED] comments on the petitioner's speaking engagements. The petitioner's evidence includes documentation showing that the petitioner has spoken at various churches and religious gatherings. Participation in such events, however, does not constitute original contributions of major significance in the field. There is no evidence showing that the petitioner's work is of major significance to the field as a whole and not limited to the local engagements where he spoke. The petitioner failed to establish, for example, that his oratory presentations were of major significance so as to establish their impact or influence beyond the audience at the gatherings.

[REDACTED] Ramah Bible College, Ilford, United Kingdom, states:

I write to introduce [the petitioner], who is an accomplished pharmacist and a greatly endowed speaker. [The petitioner] by my estimation is a very gifted author, a unique preacher and a highly anointed man of God, full of wisdom. I consider these endowments as exceptional because of the rareness of his qualities. I have known him for a while as a seriously minded person very focused on his life goals and vision.

The depth of [the petitioner's] writings are simply breath-taking, each of his six inspirational books are all unique page-turners which challenges the status quo.

I highly recommend his books to my Bible College students as well as all avid readers who wishes [sic] to be inspired, encouraged and motivated.

[REDACTED] states that he highly recommends the petitioner's books to his Bible College students, but he does not indicate that petitioner's books are used as a part of the Ramah Bible College curricula. Further, [REDACTED] fails to provide specific examples indicating how the petitioner's work has impacted the field or is otherwise of major significance. For instance, there is no evidence showing that the petitioner's work is listed on course curricula of theological programs at renowned Christian universities or that his books have attracted significant attention from independent religious scholars. While the petitioner has written material and spoken on various religious subjects, there is no documentary evidence demonstrating that his work equates to original scholarly contributions of major significance in the field.

Reverend Lord Cobblah, resident pastor of Glory Life Church, London, United Kingdom, states:

[The petitioner] has been known to me for many years as an exceptional orator, preacher and a prolific writer of exceptional quality. His unique perspective on the Christian faith is abundantly expressed in the great number of books he has so far written. These books have made a great impact here in London and across the UK.

We highly appreciate his ministry and have been a regular guest speaker at our conferences and the impact of his messages over those present has always been productive and tangible.

If there has ever been a time when an anointed, knowledgeable and humble servant of God is needed in the broken and decaying communities of the world, to lead an exemplary life, infecting and affecting people positively, then I would say it is now and I would not hesitate to consider [the petitioner]. I am very confident that he is an instrument and a vessel that can help bring the church of Jesus Christ to its original place. Unreservedly, I would without doubt envisage a greater demand for his ministry everywhere, especially in the USA.

asserts that the petitioner's "books have made a great impact . . . in London and across the UK," but there is no documentary evidence to support the claim. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)). Further, USCIS need not accept primarily conclusory assertions. *1756, Inc. v. The Attorney General of the United States*, 745 F. Supp. 9, 15 (D.C. Dist. 1990). While expresses his appreciation for the petitioner's ministry, he fails to provide specific examples of how the information and ideas in the petitioner's books are being widely applied by others in the field or that they otherwise equate to original contributions of "major significance" in the field.

Life Changers Church International, Carshalton, United Kingdom, states:

I write to introduce [the petitioner], an awesome speaker and a great author of international standing. I have known [the petitioner] for years and have been impressed with his exceptional leadership ability as well as his deep spiritual endowments.

[The petitioner's] writings are rare and of unusual quality, his six inspirational books have greatly impacted my church with wonderful testimonies following. In fact the book titled 'Goliath Can Fall' is an adopted book in my church for leadership training and general inspiration.

I recognize [the petitioner] as a special vessel, a leading man of God that stands tall in his field of endeavour. His gifts and talents have contributed immensely to the development of many people across the globe. He has connected with many people through his writings and messages.

a close associate of the petitioner, comments that the petitioner's book *Goliath Can Fall* "is an adopted book in my church for leadership training and general inspiration." There is no documentary evidence demonstrating that the petitioner's work was recognized beyond church such that his book constitutes an original contribution of major significance in the field. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(v) requires that the contributions be "of major significance in the field" rather than limited to only a small number of religious institutions. does not provide specific examples of how the petitioner's work has substantially impacted Christian educational

methodologies, has influenced the work of religious scholars in the field, or otherwise constitutes original contributions of major significance in the field.

In evaluating the reference letters, the AAO notes that that letters containing mere assertions of widespread acclaim and vague claims of contributions are less persuasive than letters that specifically identify contributions and provide specific examples of how those contributions have influenced the field. Ultimately, evidence in existence prior to the preparation of the petition carries greater weight than new materials prepared especially for submission with the petition. An individual with sustained national or international acclaim should be able to produce unsolicited materials reflecting that acclaim. Vague, solicited letters from one's colleagues or letters that do not specifically identify contributions or how those contributions have influenced the field are insufficient. *Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9th Cir. 2009).

The opinions of the petitioner's references are not without weight and have been considered above. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r. 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of reference letters supporting the petition is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795-796; *see also Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact"). Thus, the content of the references' statements and how they became aware of the petitioner's reputation are important considerations. Even when written by independent experts, letters solicited by an alien in support of an immigration petition are of less weight than preexisting, independent evidence that one would expect of a religious educator and scholar who has made original contributions of major significance in the field. Without additional, specific evidence showing that the petitioner's work has been unusually influential, widely applied throughout his field, or has otherwise risen to the level of contributions of major significance, the AAO cannot conclude he meets this regulatory criterion.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

The petition submitted documentation indicating that [REDACTED] Kingslight Chapel International, Inc. in Woodbridge, Virginia and that he serves as the church's [REDACTED]. The petitioner also submitted flyers, advertisements, and announcements promoting his church's events.⁶ USCIS need not rely on self-promotional material. *See Braga v. Poulos*, No. CV [REDACTED] (C. D. CA July 6, 2007) *aff'd* 2009 WL [REDACTED] (9th Cir. 2009) (concluding that the AAO did not have to rely on self-serving assertions on the cover of a magazine as to the magazine's status as major media). There is no documentary evidence showing that Kingslight Chapel International, Inc. has garnered a distinguished reputation relative to other places of worship.

⁶ The submitted materials indicate that Kingslight Chapel International, Inc. holds its church services at the Ebenezer Presbyterian Church.

In response to the director's notice of intent to deny (NOID), the petitioner submitted letters from the Foreign Mission Auxiliary of the Eastern & Southern States Council of the Pentecostal Churches of the Apostolic Faith, Inc. and Kingdom Praise Ministries inviting him to serve as a guest speaker at events in May 2007 and September 2009, respectively. The petitioner has not established that these temporary speaking engagements are tantamount to performing in a leading or critical role for the Foreign Mission Auxiliary of the Eastern & Southern States Council of the Pentecostal Churches of the Apostolic Faith, Inc. and Kingdom Praise Ministries. The documentation submitted by the petitioner fails to demonstrate that he was responsible for the preceding organizations' success or standing to a degree consistent with the meaning of "leading or critical role." Further, there is no documentary evidence showing that the preceding organizations have a distinguished reputation.

The petitioner's response to the director's NOID also included letters from World Outreach Ministries, Praise Harvest Community Church, Greater Bethlehem Temple Church, Glory Life Church, and Harvest Chapel International inviting the petitioner to serve a guest speaker at events

The AAO notes that these speaking engagements post-date the petition's filing. As previously discussed, eligibility must be established at the time of filing. Therefore, the AAO will not consider the preceding speaking engagements as evidence to establish the petitioner's eligibility. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. at 49. Regardless, the petitioner has not established that his temporary speaking engagements were indicative of performing in leading or critical role for the preceding churches and that the churches had a distinguished reputation.

In light of the above, the petitioner has not established that he meets this regulatory criterion.

B. Summary

The petitioner has failed to satisfy the antecedent regulatory requirement of three categories of evidence.

III. CONCLUSION

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of the field of endeavor.

Even if the petitioner had submitted the requisite evidence under at least three evidentiary categories, in accordance with the *Kazarian* opinion, the next step would be a final merits determination that considers all of the evidence in the context of whether or not the petitioner has demonstrated: (1) a "level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the[ir] field of endeavor" and (2) "that the alien has sustained national or international acclaim and that his or her achievements have been recognized in the field of expertise." 8 C.F.R. §§ 204.5(h)(2) and (3); *see also Kazarian*, 596 F.3d at 1119-20. While the AAO concludes that the

evidence is not indicative of a level of expertise consistent with the small percentage at the very top of the field or sustained national or international acclaim, the AAO need not explain that conclusion in a final merits determination.⁷ Rather, the proper conclusion is that the petitioner has failed to satisfy the antecedent regulatory requirement of three categories of evidence. *Id.* at 1122.

The petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.

⁷ The AAO maintains de novo review of all questions of fact and law. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). In any future proceeding, the AAO maintains the jurisdiction to conduct a final merits determination as the office that made the last decision in this matter. 8 C.F.R. § 103.5(a)(1)(ii). *See also* section 103(a)(1) of the Act; section 204(b) of the Act; DHS Delegation Number 0150.1 (effective March 1, 2003); 8 C.F.R. § 2.1 (2003); 8 C.F.R. § 103.1(f)(3)(iii) (2003); *Matter of Aurelio*, 19 I&N Dec. 458, 460 (BIA 1987) (holding that legacy INS, now USCIS, is the sole authority with the jurisdiction to decide visa petitions).