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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



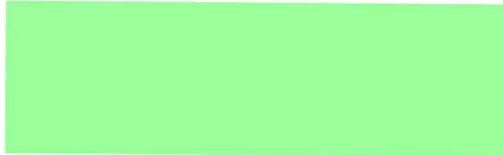
Date: **OCT 23 2013** Office: TEXAS SERVICE CENTER

FILE:

RE: Petitioner:   
Beneficiary:

APPLICATION: 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 APPLICANT:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg  
Chief, Administrative Appeals Office

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

According to parts 2 and 6 of the July 14, 2011 petition, the petitioner, who is also the beneficiary, seeks classification as an alien of extraordinary ability in athletics as a rugby team coach, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). The director determined that the petitioner has not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

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; 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)-(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 files a Form I-290B (Notice of Appeal or Motion), an addendum, an appellate brief and supporting documents, most of which counsel had previously filed. For the reasons discussed below, the petitioner has not established his eligibility for the exclusive classification sought. Specifically, the petitioner has not shown evidence of his one-time achievement that is a major, internationally recognized award, under the regulation at 8 C.F.R. § 204.5(h)(3), or that he meets at least three of the ten regulatory criteria under the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x). As such, the petitioner has not demonstrated that he is one of the small percentage who are at the very top of the field and he has not sustained national or international acclaim. *See* 8 C.F.R. §§ 204.5(h) (2), (3). Accordingly, the AAO will dismiss the petitioner's appeal.

## I. THE 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,

- (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.

United States 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. 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, internationally recognized award, or through the submission of qualifying evidence under at least three of the ten categories of evidence listed under the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x).

In 2010, the U.S. Court of Appeals for the 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 the evidence submitted to meet a given evidentiary criterion.<sup>1</sup> 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." *Kazarian*, 596 F.3d 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)." *Kazarian*, 596 F.3d 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 case, the AAO affirms the director's finding that the petitioner has not satisfied the antecedent regulatory requirement of presenting at least three types of evidence under the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x), and

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<sup>1</sup> 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 (vi).

has not demonstrated that he is one of the small percentage who are at the very top in the field, or has achieved sustained national or international acclaim. See 8 C.F.R. §§ 204.5(h) (2), (3).

## II. ANALYSIS

The court in *Lee v. Ziglar*, 237 F. Supp. 2d 914, 918 (N.D. Ill. 2002), concluded that competitive athletics and coaching are not within the same area of expertise. Specifically, the court stated:

It is reasonable to interpret continuing to work in one's "area of extraordinary ability" as working in the same profession in which one has extraordinary ability, not necessarily in any profession in that field. For example, Lee's extraordinary ability as a baseball player does not imply that he also has extraordinary ability in all positions or professions in the baseball industry such as a manager, umpire or coach. The regulations regarding this preference classification are extremely restrictive, and not expanding "area" to include everything within a particular field cannot be considered unreasonable.

*Id.* at 918.

In this case, the evidence in the record shows that the petitioner was a rugby player who became a rugby coach in 2002 and, thus, has had several years to develop his reputation as a coach. As the petitioner seeks classification as an alien of extraordinary ability as a rugby coach, he must present at least three types of evidence under the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x) relating to his role as a rugby coach, and demonstrate that he is one of the small percentage who are at the very top in the field, or has achieved sustained national or international acclaim, as a rugby coach. See 8 C.F.R. §§ 204.5(h) (2), (3).

### A. Evidentiary Criteria<sup>2</sup>

Under the regulation at 8 C.F.R. § 204.5(h)(3), the petitioner can establish his sustained national or international acclaim and that his achievements have been recognized in the field of endeavor by presenting evidence of a one-time achievement that is a major, internationally recognized award. In counsel's July 13, 2011 letter that he initially filed in support of the petition, he asserted that the petitioner's qualifying one-time achievement was his appointment as a "Delegation Leader and Team Manager of the [redacted] France." In response to the director's request for evidence (RFE) and on appeal, counsel no longer asserts that the petitioner's [redacted] involvement is evidence of a qualifying one-time achievement. Instead, counsel asserts that the petitioner meets this requirement based on: (1) "his introduction to and audience with [redacted]"

<sup>2</sup> The petitioner does not claim that he meets the regulatory categories of evidence not discussed in this decision.

██████████ on November 4, 2004 during their visit to ██████████ and (2) the petitioner “being named as Honorary Referee for the ██████████” In his Form I-290B addendum, counsel points to a document entitled “Personal Information Sheet,” that the ██████████ issued; a September 10, 2009 letter from Dr. ██████████ President of the ██████████ a certificate certifying that the petitioner worked as an ██████████ and the petitioner’s ██████████ credentials.

None of these documents establish that the petitioner has received a major, internationally recognized award. First, the petitioner has not provided any evidence showing that an invitation to meet ██████████ constitutes an award. The petitioner has also not shown that being named an ██████████ constitutes an award.

Second, the petitioner has provided insufficient evidence relating to what criteria one must meet to be invited to meet ██████████ or how many people were invited to meet them on November 4, 2004. Although counsel asserts in part 3 of the Form I-290B that the “Personal Information Sheet” and 2009 letter from Dr. ██████████ provide information relating to the requirements for the petitioner’s invitation to meet ██████████ a review of these documents does not support counsel’s assertion. Specifically, the “Personal Information Sheet,” as its name suggests, relates to the personal information of the petitioner that was provided to the ██████████ for the ██████████ It makes no mention of an invitation to meet ██████████ Similarly, although Dr. ██████████’s 2009 letter mentions the petitioner’s appointment as the Team Manager and Leader of the ██████████ in 2003, it makes no mention of an invitation, or more specifically, the requirements for someone to be invited to meet ██████████

Third, the petitioner’s supporting evidence, a ██████████ certificate and credentials, does not establish that serving as an ██████████ at the ██████████ constitutes receipt of a major, internationally recognized award. Specifically, the evidence does not include the requirements that a person must meet to become an honorary referee at the event. The record lacks information relating to how the organizing committee nominates or selects honorary referees, or how many people served as honorary referees at the event.

Given Congress’ intent to restrict this category to “that small percentage of individuals who have risen to the very top of their field of endeavor,” the regulation permitting eligibility based on a one-time achievement must be interpreted very narrowly, with only a small handful of awards qualifying as major, internationally recognized awards. *See* H.R. Rep. 101-723, 59 (Sept. 19, 1990), reprinted in 1990 U.S.C.C.A.N. 6710, 1990 WL 200418 at \*6739 (Sept. 19, 1990). Congress’ example of a one-time achievement is a Nobel Prize. *Id.* The regulation is consistent with this legislative history, stating that a one-time achievement must be a major, internationally recognized award. 8 C.F.R. § 204.5(h)(3). Significantly, even a lesser internationally recognized award could serve to meet only one of the ten regulatory criteria, of which an alien must meet at least three. *See* 8 C.F.R.

§ 204.5(h)(3)(i). The selection of Nobel Laureates, the example provided by Congress, is reported in the top media internationally regardless of the nationality of the awardees, is a familiar name to the public at large and includes a large cash prize. While an internationally recognized award could conceivably constitute a one-time achievement without meeting all of those elements, it is clear from the example provided by Congress that the award must be global in scope and internationally recognized in the alien's field as one of the top awards in that field.

In this case, the petitioner has not shown through his evidence that either his 2004 invitation to meet [REDACTED] or his serving as an honorary referee at the [REDACTED] constitutes an award, or, more specifically, a major, internationally recognized award at a level similar to that of the Nobel Prize. Barring the petitioner's receipt of such an award, the regulation outlines ten criteria, at least three of which the petitioner must be satisfied for the beneficiary to meet the basic eligibility requirements. See 8 C.F.R. § 204.5(h)(3)(i)-(x).

*Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.* 8 C.F.R. § 204.5(h)(3)(i).

On appeal, counsel asserts that the same documents the AAO discussed above – the [REDACTED] “Personal Information Sheet,” Dr. [REDACTED]'s 2009 letter, the [REDACTED] certificate and credentials – also establish that the petitioner's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. In addition, counsel asserts:

As for requirements for the awards or prizes received, the nature of these awards or prizes are such that they traditionally or historically have recognized excellence without requiring or publishing any particular defined elements for the receipt thereof, just general excellence or high achievements. Audiences with [REDACTED] . . . have been awarded over many years to numerous persons for excellence or high achievements in many varied fields or endeavor without ever having defined or published any particular requirements for same, just as naming as an honorary referee to world games of any sport is a recognition of general excellence and high achievement in that sport.

Counsel's assertions, without any supporting evidence in the record, do not establish that the petitioner has met this criterion. As noted, going on record without supporting documentary evidence is not sufficient for the purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165. In short, the record lacks evidence relating to what requirements, if any, a person must meet to be invited to meet [REDACTED] at the November 2004 event or to become an honorary referee at the 2005 World Games. The record also lacks evidence that the petitioner's field nationally or internationally recognizes the invitation and appointment as awards for excellence in the field, such as trade or general media coverage of royal invitations and honorary referee appointments.

In his appellate brief, counsel relies on information provided on wikipedia.com to support his assertion that the petitioner meets this criterion. There are no assurances, however, about the reliability of the content from this open, user-edited internet site.<sup>3</sup> See *Badasa v. Mukasey*, 540 F.3d 909, 910-11 (8th Cir. 2008). As such, evidence from this site is not probative evidence.

Finally, the record includes evidence of the petitioner's receipt of other awards, including, but not limiting to, a Coach Award the [REDACTED] issued to the petitioner on September 25, 2004; a Referee Award the [REDACTED] issued to the petitioner on September 23, 2005; a Preliminary Award the [REDACTED] issued to the petitioner on October 21, 1982; and a [REDACTED] dated August 24, 2005. On appeal, however, counsel has not specifically challenged the director's finding that these awards do not constitute nationally or internationally recognized prizes or awards for excellence. As such, the petitioner has abandoned this issue, as he did not timely raise it on appeal. *Sepulveda v. United States Att'y Gen.*, 401 F.3d 1226, 1228 n.2 (11th Cir. 2005); *Hristov v. Roark*, No. 09-CV-27312011, 2011 WL 4711885 at \*1, 9 (E.D.N.Y. Sept. 30, 2011) (the United States District Court found the plaintiff's claims to be abandoned as he failed to raise them on appeal to the AAO).

Accordingly, the petitioner has not presented documentation of his receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. The petitioner has not met this criterion. See 8 C.F.R. § 204.5(h)(3)(i).

*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. § 204.5(h)(3)(ii).

On appeal, counsel contends that the petitioner meets this criterion because he received: (1) a [REDACTED] trainer license, (2) an [REDACTED] Award, (3) a [REDACTED]

<sup>3</sup> Online content from Wikipedia is subject to the following general disclaimer entitled "WIKIPEDIA MAKES NO GUARANTEE OF VALIDITY":

Wikipedia is an online open-content collaborative encyclopedia, that is, a voluntary association of individuals and groups working to develop a common resource of human knowledge. The structure of the project allows anyone with an Internet connection to alter its content. Please be advised that nothing found here has necessarily been reviewed by people with the expertise required to provide you with complete, accurate or reliable information.

. . . Wikipedia cannot guarantee the validity of the information found here. The content of any given article may recently have been changed, vandalized or altered by someone whose opinion does not correspond with the state of knowledge in the relevant fields . . . .

See [http://en.wikipedia.org/wiki/Wikipedia:General\\_disclaimer](http://en.wikipedia.org/wiki/Wikipedia:General_disclaimer), accessed on October 11, 2013, a copy of which is incorporated into the record of proceeding.

issued to the petitioner, (4) a Preliminary Award the issued to the petitioner, and (5) a Level 2 Certificate of Success and Diploma the issued to the petitioner. In addition, counsel contends that the petitioner's membership in (1) the and (2) meets this criterion.

The evidence in the record does not establish that the petitioner meets this criterion. The supporting evidence establishes that the petitioner completed a number of training courses and received a number of awards. Counsel asserts in his Form I-290B addendum that "all but one (1) of [the certificate or award issuing organizations] are on the national or international level, and in which membership is by the nomination of the associations' board members or officers and includes prior written and oral examinations, who are the highest and only recognized experts in the field." In his June 3, 2012 letter, Vice President of states that "to sustain [the petitioner's] level of expertise in his sport," Mr. "nominated [the petitioner] repeatedly to partake in training and examination courses." The letter further provides that Mr. nominated the petitioner "as one of the selected referees during the ' and that the petitioner "was chosen by the as part of a panel in national Referee courses held in where he evaluated and mentored new referees."

Neither this letter nor any other evidence in the record shows that the petitioner is a member of any association that requires outstanding achievements of its members, as judged by recognized national or international experts in their disciplines or fields. Specifically, without documents relating to membership requirements for any of the associations, the petitioner has not shown what any of the organizations requires from its members or if any of them requires outstanding achievements, as judged by recognized national or international experts. *See* 8 C.F.R. § 204.5(h)(3)(ii). Moreover, the petitioner has not shown that he is/was a member of any of the organizations. The training certificates, licenses and awards do not indicate that the petitioner is/was a member of the issuing organization. The record lacks documents, such as membership certificates or letters from the organizations, showing that the petitioner is/was a member. The record also lacks evidence establishing that only members of the issuing organizations may receive training certificates, licenses or awards. In addition, licensure is a criterion for aliens of exceptional ability, a lesser classification. *See* 8 C.F.R. § 204.5(k)(3)(iii)(C). It is not a criterion for aliens of extraordinary ability. *See* 8 C.F.R. § 204.5(h)(3).

Similarly, although the record contains evidence showing the petitioner's membership in the the record lacks evidence relating to the membership requirements of either organization. As such, the petitioner has not shown that either organization requires outstanding achievements of its members, as required by the plain language of the criterion. *See* 8 C.F.R. § 204.5(h)(3)(ii).

Finally, the record includes evidence of the petitioner's involvement with other rugby organizations. On appeal, however, counsel has not specifically challenged the director's adverse findings that the

petitioner's involvement in those other organizations does not meet this criterion. As such, the petitioner has abandoned this issue, as he did not timely raise it on appeal. *Sepulveda*, 401 F.3d at 1228 n.2; *Hristov*, 2011 WL 4711885 at \*9.

Accordingly, the petitioner has not presented documentation of his 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. The petitioner has not met this criterion. See 8 C.F.R. § 204.5(h)(3)(ii).

*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. 8 C.F.R. § 204.5(h)(3)(iii).*

On appeal, counsel contends that the petitioner meets this criterion because the May 22, 2010 article [redacted] was published in "a national and international trade publication, a internet web-site dedicated to the sport of rugby" and the article is "about the [redacted] 'dominated' by the team coached by the petitioner and contained only one photograph, that of the petitioner." Counsel then asserts that the article [redacted] and a 2004 untitled article were published in the [redacted] which is "a major national [redacted] news publication." Counsel further asserts that the September 2011 article entitled [redacted] was published on [redacted] "a web-based publication serving 234 U.S. markets and 6 Canadian markets, with 18.6 Mio [sic] readers monthly."

The evidence in the record does not show that the petitioner has met this criterion. First, the petitioner has not shown that [redacted] is about the petitioner, relating to his work. Indeed, the article does not mention the petitioner by name other than a photography credit for the photograph of an athlete. Moreover, the record lacks evidence relating to the website that published the article, from which the AAO may determine if the website constitutes a professional or major trade publication or other major media.

Second, the petitioner has not provided sufficient evidence showing that either the [redacted] or [redacted] is a professional or major trade publication or other major media. Although counsel asserts in the Form I-290B addendum that the [redacted] is a major [redacted] news publication and that [redacted] "serv[es] 234 U.S. markets and 6 Canadian markets, with 18.6 Mio [sic] readers monthly," neither counsel nor the petitioner has provided any evidence to support these assertions. Indeed, the record lacks any evidence relating to the [redacted] or [redacted] including the nature of each publication or the reach or size of the readership. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaighena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Moreover, the petitioner has not provided any

information relating to the author of either of the [REDACTED] articles, as required by the plain language of the criterion. See 8 C.F.R. § 204.5(h)(3)(iii). Furthermore, the petitioner has not shown that the examiner.com article, which consists of four sentences and mentions the petitioner's name once, is about the petitioner, relating to his work. Notably, the author's byline on the [REDACTED] article indicates that he works for the [REDACTED]. The national or international accessibility of a parent publication's internet site is not determinative, at issue is the readership of the subset of webpages on [REDACTED] that posted the article.

Finally, the record includes evidence of other published material, including, but not limiting to, material published in [REDACTED]. On appeal, however, counsel has not specifically challenged the director's finding that these articles are insufficient to show the petitioner meets this criterion. As such, the petitioner has abandoned this issue, as he did not timely raise it on appeal. *Sepulveda*, 401 F.3d at 1228 n.2; *Hristov*, 2011, 2011 WL 4711885 at \*9.

Accordingly, the petitioner has not presented published material about him in professional or major trade publications or other major media, relating to his work in the field for which classification is sought. The petitioner has not met this criterion. See 8 C.F.R. § 204.5(h)(3)(iii).

*Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.* 8 C.F.R. § 204.5(h)(3)(iv).

On appeal, counsel contends that the petitioner meets this criterion because he served as an honorary referee at the [REDACTED]. Citing [REDACTED] counsel asserts that a referee is "a sports official usually having final authority in administering a game." Neither counsel nor the petitioner, however, has provided any information relating to the petitioner's duties at the [REDACTED] as one of its honorary referees. Indeed, the record contains no evidence showing what exactly the petitioner did at the [REDACTED]. As such, although according to the definition provided by counsel a referee "usually ha[s] final authority in administering a game" (emphasis added), the record lacks evidence establishing that at the [REDACTED] the petitioner, as an honorary referee, participated as a judge of the work of others in the same or an allied field.

Accordingly, the petitioner has not presented evidence of his participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought. The petitioner has not met this criterion. See 8 C.F.R. § 204.5(h)(3)(iv).

*Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.* 8 C.F.R. § 204.5(h)(3)(v).

On appeal, counsel asserts that the petitioner meets this criterion. As supporting evidence, counsel points to: (1) a December 16, 2004 letter from [REDACTED] National Trainer of [REDACTED]

(2) a 2009 letter from Dr. [REDACTED] (3) a September 22, 2009 letter from Dr. [REDACTED] Chairman of [REDACTED] (4) a 2011 letter from Mr. [REDACTED] and (5) two letters, both dated December 5, 1989, from the petitioner to the Chairman of [REDACTED] expressing appreciation for accommodations and sponsorship.

The evidence in the record does not show that the petitioner has met this criterion. The evidence indicates that the petitioner has been involved in the sport of rugby as a player, manager, referee and coach over the years, including serving as the Team Manager and Leader for the [REDACTED] the team coach for the [REDACTED] and a tour manager for [REDACTED]. The evidence does not establish that the petitioner has made any contribution to the sport of rugby as a whole, that is either original or that is of major significance. Indeed, none of the evidence in the record discusses or even mentions the petitioner's contributions to the sport of rugby as a whole as either original – such that he is the first person or one of the first people to have made the contributions, or of major significance – such that the contributions significantly affected the sport. The petitioner has not shown that his involvement in the sport is either original or of major significance. Indeed, other than making the conclusory statement that the evidence establishes that the petitioner meets this criterion, counsel has provided no legal or factual basis for his assertion. Merely repeating the language of the statute or regulations does not satisfy the petitioner's burden of proof. *See Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F. 2d 41 (2d Cir. 1990); *Avyr Associates, Inc. v. Meissner*, No. 95 Civ. 10729, 1997 WL 188942 at \*5 (S.D.N.Y. Apr. 18, 1997). Similarly, USCIS need not accept primarily conclusory assertions. *See 1756, Inc. v. United States Att'y Gen.*, 745 F. Supp. 9 (D.C. Dist. 1990).

Accordingly, the petitioner has not presented evidence of his original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. The petitioner has not met this criterion. 8 C.F.R. § 204.5(h)(3)(v).

*Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.* 8 C.F.R. § 204.5(h)(3)(viii).

On appeal, counsel asserts in the Form I-290B addendum that the petitioner meets this criterion because he served as the “Team Manager and Delegation Leader for the [REDACTED]” and as an “Honorary Referee at the [REDACTED]”

The evidence in the record does not establish that the petitioner has met this criterion. First, the petitioner has not shown that the [REDACTED] constitutes an organization or establishment that has a distinguished reputation. The petitioner has provided insufficient evidence relating to the reputation of the [REDACTED] event, or whether it is distinguished or not. Moreover, the petitioner has not shown that he has performed a leading or critical role for the [REDACTED] as a whole, rather than for one competition in 2003. Specifically, the evidence does not establish the

petitioner's further involvement with the [REDACTED] event. The petitioner's curriculum vitae does not indicate any further involvement.

Second, the petitioner has not provided sufficient evidence showing what exactly he did as an honorary referee at the [REDACTED]. The record lacks information relating to the total number of honorary referees at the event, how many matches, if any, the petitioner participated as an honorary referee, or what role honorary referees played at the [REDACTED]. Moreover, the petitioner has not shown that the [REDACTED] constitutes an organization or establishment that has a distinguished reputation. The petitioner has provided insufficient evidence relating to the reputation of the [REDACTED].

Finally, the record includes evidence of the petitioner's involvement in other organizations and establishments, including, but not limiting to the [REDACTED] and the [REDACTED]. On appeal, however, counsel has not specifically maintained that the petitioner's involvement in these organizations or establishments meets this criterion. As such, the petitioner has abandoned this issue, as he did not timely raise it on appeal. *Sepulveda*, 401 F.3d at 1228 n.2; *Hristov*, 2011, 2011 WL 4711885 at \*9.

Accordingly, the AAO finds that the petitioner has not presented evidence that the beneficiary has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. The petitioner has not met this criterion. 8 C.F.R. § 204.5(h)(3)(viii).

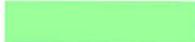
### III. CONCLUSION

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 have risen to the very top of the field of endeavor.

Had the petitioner 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 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.<sup>4</sup> Rather, the proper conclusion is that the petitioner has failed to

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<sup>4</sup> The AAO maintains *de novo* review of all questions of fact and law. *See Soltane v. United States Dep't of Justice*, 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* INA



satisfy the antecedent regulatory requirement of presenting three types of evidence. *Kazarian*, 596 F.3d at 1122.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

**ORDER:** The appeal is dismissed.