



U.S. Citizenship
and Immigration
Services

(b)(6)

[Redacted]

DATE: NOV 18 2014

Office: TEXAS SERVICE CENTER

FILE: [Redacted]

IN RE:

Petitioner:

Beneficiary:

[Redacted]

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:

[Redacted]

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 on appeal. We will dismiss the appeal.

The petitioner, a postdoctoral research associate, seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability in the sciences. The director determined that the petitioner had not met the requisite criteria for classification as an alien of extraordinary ability.

On appeal, the petitioner submits a brief and additional evidence. In the brief, the petitioner asserts that she meets the categories of evidence at 8 C.F.R. § 204.5(h)(3)(iv), (v), and (vi).

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,

(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, internationally 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 our decision to deny the petition, the court took issue with our evaluation of evidence submitted to meet a given evidentiary criterion.¹ 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 our 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 we 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 we 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, we 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.*

II. ANALYSIS

A. Evidentiary Criteria

The petitioner earned her Ph.D. in Chemistry from the [REDACTED] in 2006 under the supervision of Dr. [REDACTED] Associate Professor, Department of Chemistry, [REDACTED]. At the time of filing, the petitioner was working as an [REDACTED] Postdoctoral Research Associate at the [REDACTED] [REDACTED] under the supervision of Dr. [REDACTED]. The petitioner has submitted documentation pertaining to the following categories of evidence under 8 C.F.R. § 204.5(h)(3).²

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.

¹ Specifically, the court stated that we 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).

² On appeal, the petitioner does not claim to meet any of the regulatory categories of evidence not discussed in this decision. Therefore, no determination has been made regarding whether the petitioner meets the remaining categories of evidence.

The petitioner submitted evidence demonstrating that she reviewed a Nanobiotechnology proposal for the [REDACTED]. Accordingly, the evidence supports the director's finding that the petitioner meets this regulatory criterion.

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

The petitioner submitted letters of support, her publications and presentations, citation evidence for her published work, and a webpage for Macrocyclics reflecting that the ligand Fmoc-L-Lys-monoamide-DOTA-tris(t-Bu ester)(B-275) is available for purchase. The director acknowledged the petitioner's submission of the preceding evidence, but found that it was not sufficient to demonstrate that the petitioner's work equated to original contributions of major significance in the field. The director therefore concluded that the petitioner did not establish eligibility for this regulatory criterion.

The plain language of this criterion requires "[e]vidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field." Here, the evidence must be reviewed to see whether it rises to the level of original scientific or scholarly-related 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).

In the appeal brief, the petitioner asserts that "citations are perhaps the best objective, quantifiable measurement of a researcher's impact on the field" and that the petitioner's "publications have been published in very high ranking journals." Citing to an article entitled "How to evaluate individual researchers working in the natural and life sciences meaningfully? A proposal of methods based on percentiles of citations" that was published in [REDACTED] in January 2014, the brief states that the authors "are explicit that citations are the measure of the impact of a particular publication, and that the impact is the 'most important indicator of the significance of a publication on scientific activities.'" The brief asserts that the number of citations of the petitioner's articles show she "has been one of the most influential researchers in all of Chemistry over the past decade." (Emphasis omitted). However, the article also states that "Today, evaluation studies go further than merely giving the number of publications and citations for a researcher; numerous bibliometric indicators are also used."

The [REDACTED] article includes "recommendations for a set of indicators to be used for evaluating researchers." The article points out that "the number of articles which a researcher has published says something about how productive his or her research is" and that "the citations are considered as a measure of the impact a publication has on science." (Footnote omitted.) According to the authors of the article, three factors should be taken into account when carrying out a study into the scientific performance of individual researchers:

- 1) Analysis of publications: A considerable number of publications is recommended as a basis for a statistical analysis of a single researcher. At the group level, [REDACTED] (2000) deems 10 to 20 publications per year appropriate. According to [REDACTED] and

[REDACTED] (2008) “it is possible to draw reliable conclusions regarding an author’s citation record on the basis of approximately 50 papers” (p. 384). These recommendations for the minimum number of publications imply that an evaluated researcher should be at least at the postdoctoral level. In order to have a set that is as large as possible with which to evaluate a researcher, we recommend taking all the publications into account for the study (and not a set limited to specific publication years. . . .

- 2) Citation analysis: If at all possible, everything a researcher has published before the evaluation should be included in the citation analysis. However, it should also be taken into account that it is difficult to evaluate the impact of the most recent publications reliably.

* * *

- 3) Self-citations: In principle we are of the view that self-citations are usually an important part of the scientific communication and publication process and should therefore be taken into account in an evaluation study. . . . Only if the question of an evaluation study explicitly means to what extent a scientist has influenced other scientists’ work, self-citations should be obviously ignored. In every evaluation study, however, it should be checked whether a researcher cites him or herself excessively. . . . Our experience in practical evaluation in the natural and life sciences has shown that the percentage of self-citations is 10-20%.

The recommendations in the [REDACTED] article indicate that citations are useful in determining the impact of an author’s publications. The article recommends “a considerable number of publications . . . for a statistical analysis of a single researcher,” with one quoted source calling for a citation record based on approximately 50 papers while another indicates 10 to 20 papers per year would be more appropriate. In addition, the article states that self-citations should be ignored when determining “to what extent a scientist has influenced other scientists’ work.” While the authors state that “Publications which are among the 10% most cited publications in their subject area are as a rule called highly cited or excellent,” they conclude that that alone is not dispositive of a researcher’s impact on the field. (“This set [of bibliometrical methods] is flexible and can be adapted to the application in question. The methods and indicators presented here need not be used in every instance.”)

The petitioner’s evidence indicates that she has published seven articles since 2002 and none since 2011, not a “considerable number” of articles as recommended by the authors of the [REDACTED] article. The petitioner points to citation evidence from Google Scholar showing an aggregate of 186 cites to her body of research work since 2002. The citation indices from Google Scholar, however, do not indicate how many of the submitted citations are self-cites by the petitioner or her coauthors. Self-citation is a normal, expected practice. Self-citation, however, does not show to what extent a researcher has influenced other scientists’ work. The submitted documentation reflects:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.

With regard to items 1 – 7, the petitioner has not established that the number of independent cites per article for her published work is indicative of original scientific contributions of “major significance” in the field. In addition to the Google Scholar citation evidence, the petitioner submitted information from Google Scholar and SCImago showing the rankings of the journals that published her work. Although a journal’s ranking can provide an approximation of the prestige of the journal, the ranking does not demonstrate the major significance of every article published in that journal. The petitioner must establish that the findings in her article have affected the chemistry field at a level indicative of original contributions of major significance in the field.

The petitioner also points to documentation showing that her articles entitled [REDACTED] were cited to at a higher than average rate relative to other articles published in the field of chemistry. An above average citation rate, however, does not necessarily equate to contributions of “major significance” in the field. The petitioner has not established that the above average citation rates and number of independent cites to the preceding articles are indicative of contributions of major significance in her field.

The petitioner’s appeal brief points to the letters of support as further evidence that she meets this criterion.

Dr. [redacted] states:

I was [the petitioner's] major advisor for her thesis project entitled [redacted] [redacted] "... As part of her project, she did a number of In-111 radiolabelings and purifications, and in vitro assays. Her project, of course, required extensive HPLC use and LS-MS analysis. She apprenticed under Dr. [redacted] [redacted] and has also helped a number of investigators with their projects. She also prepared [redacted], Dr. [redacted] when she first started in research.

* * *

When she graduated in 2006, [the petitioner] became a postdoctoral fellow of Dr. [redacted] [redacted] of the [redacted] NM. There, she added to her experience with working with Ga-67 as a radionuclide in the development of In-111 and [redacted]

After completion of this postdoctoral fellowship, she began working in 2008 at the [redacted] with Dr. [redacted] where she continues today. [The petitioner] has participated on many projects, among them are: the synthesis of a [redacted] to enable its conjugation with cysteamine dendrimers; and development of a series of probes for superresolution microscopy.

Dr. [redacted] comments on the petitioner's graduate research at [redacted] and on her postdoctoral training at the [redacted] but does not explain how the petitioner's research was of major significance to the field. Although the petitioner's graduate and postdoctoral research has value, any research must be original and likely to present some benefit if it is to receive funding and attention from the scientific or academic community. In order for a university, publisher or grantor to accept any research for graduation, publication or funding, the research must offer new and useful information to the pool of knowledge. Not every scientist who performs original research that adds to the general pool of knowledge in the field has inherently made a contribution of "major significance" to the field as a whole. The petitioner has not established that her work has affected the medical imaging industry or research community in a major way, or that her work was otherwise indicative of original contributions of major significance in the field.

Dr. [redacted], Professor of Radiology, [redacted], states:

To elaborate, consider [the petitioner's] article published in [redacted] [redacted] This journal is ranked 6th in 111 periodicals in the research area of [redacted]. . . . All articles are subject to a rigorous review process, and only papers espousing the most innovative content and most thorough research are selected for publication. The journal is of primary interest to scientists in the field of nuclear medicine.

* * *

In this original study, [the petitioner's] research contribution was to develop methods to image [redacted] expression in tumors. A molecule that was shown to bind specifically to the [redacted] receptor was conjugated with a radiometal reporter. The radio labeled reporter molecule showed promising results in detection of [redacted] receptors both in tumor cell models and mouse models.

Dr. [redacted] points to the petitioner's article in [redacted]

[redacted] The regulations contain a separate criterion regarding the authorship of published articles. 8 C.F.R. § 204.5(h)(3)(vi). In *Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9th Cir. 2009), the court held that 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" in the field. 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. Again, there is no presumption that every published article or conference presentation is a contribution of major significance; rather, the petitioner must document the actual impact of his article or presentation.

According to the submitted Google Scholar citation information, [redacted] [redacted] has been cited to 20 times since 2011. Although the preceding citations show that the field has taken some interest in the petitioner's work, the petitioner has not established that this level of citation is indicative of a contribution of major significance in the field. In addition, while Dr. [redacted] states that the petitioner's work "showed promising results in detection of [redacted] receptors both in tumor cell models and mouse models," she does not provide specific examples of how the petitioner's findings have already been implemented as an effective method for diagnosing breast cancer in patients, have substantially improved tumor detection technologies available in the medical imaging industry, or have otherwise been of major significance to the field.

Dr. [redacted] further states:

Additionally, findings from this research were also presented in the [redacted] [redacted] attended by about 1500 experts in molecular imaging. This is an official meeting of the [redacted] an international society dedicated to multiple imaging modalities. The presentations are subject to a rigorous peer-review process, which ensures only the most innovative and relevant findings are presented. Preliminary results from the development of methods to image [redacted] expression in breast cancer tumor models were presented at the [redacted]

Dr. [redacted] mentions that the petitioner's findings were presented in the [redacted] [redacted] With regard to the petitioner's conference presentations, many professional fields regularly hold meetings and conferences to present new work, discuss new findings, and to network with other professionals. Professional associations, educational institutions, employers, and government agencies promote and sponsor these meetings and conferences. Participation in such

events, however, does not equate to original contributions of major significance in the field. There is no documentary evidence showing that the petitioner's presented work has significantly impacted the field as a whole or has otherwise risen to the level of contributions of major significance in the field.

Dr. [REDACTED] currently Head of Pharmaceutical Development, [REDACTED] Germany, and formerly Leader of Chemical Development for [REDACTED] Germany, states:

I have known [the petitioner] from strong professional interactions as a customer of [REDACTED] . . . [The petitioner's] current research at the [REDACTED] is concerned with development of molecular probes that are useful as diagnostic agents of diseases like cancer. In the recent years, her research work has led to significant advances in preparation of imaging agents for melanoma and breast cancer. Her outstanding results have been published in distinguished journals such as [REDACTED], a publication of the [REDACTED]. Her work received much attention from a wide audience across the pharmaceutical field.

[REDACTED] frequently publishes [sic] bulletins reporting on news about products and the latest developments in the [REDACTED] field. A prominent aspect of the letter includes highlights of newsworthy research developments from our customers and short interviews featuring these remarkable researchers. Criteria for choosing material for this section are unique and exceptional developments in the field of [REDACTED].

In 2010, [the petitioner] and her scientific advisor, Dr. [REDACTED] [sic] research on [REDACTED] based molecular probes at the [REDACTED] was presented in our bulletin. [The petitioner's] remarkable work has led to discoveries, which are poised to contribute significantly to the continued well-being of people in the United States and the world in general.

Dr. [REDACTED] points to the petitioner's publication of articles in journals such as [REDACTED]. Although the articles that the petitioner authored with her research supervisors have received a number of citations, she has not established that her findings rise to the level of original contributions of major significance in the field. In addition, Dr. [REDACTED] mentions that [REDACTED] issues bulletins reporting on news about its products and customers, and that the petitioner and Dr. [REDACTED] research on [REDACTED] based molecular probes was presented in the company's bulletin in 2010. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(v) requires that the petitioner's contributions be "of major significance in the field" rather than limited to her research institution and its suppliers such as [REDACTED]. See *Visinscaia v. Beers*, --- F. Supp. 2d ---, 2013 WL 6571822, at *6 (D.D.C. Dec. 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). The article in [REDACTED] bulletin is not sufficient to demonstrate that the petitioner's work was of major significance to the field.

Furthermore, Dr. [REDACTED] comments that the petitioner's discoveries "are poised to contribute significantly to the continued well-being of people in the United States and the world," but does not point to specific examples of how the petitioner's work has already had this effect. Dr. [REDACTED] speculation about possible future impact of the petitioner's work is not evidence, and cannot establish eligibility for the category of evidence at 8 C.F.R. § 204.5(h)(3)(v). Eligibility must be established at the time of filing. 8 C.F.R. § 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971).

Dr. [REDACTED] Curators' Professor [REDACTED] Chemistry and Biochemistry at [REDACTED] states:

During her Ph.D. studies at the [REDACTED], one of her significant contributions has been the synthesis of [REDACTED] a molecule that simplified the synthesis pathways to prepare [REDACTED] conjugates. These conjugates were used to image bcl-2 genes, which are overexpressed in [REDACTED] and other cancers. This achievement of hers was commented upon in a review article ' [REDACTED] Metal Complex Conjugates, *European Journal of Organic Chemistry*, 2008, 597-634.

Dr. [REDACTED] asserts that the petitioner's synthesis of [REDACTED] was a "significant" contribution and that her work was commented upon in a review article in [REDACTED]. The petitioner submitted a copy of the review article entitled '[REDACTED]' [REDACTED]. The review article summarizes numerous reports on the preparation of metal complex peptide conjugates by solid-phase synthesis methods and cites to more than one hundred research studies. With regard to the petitioner and Dr. [REDACTED] report entitled [REDACTED] [REDACTED] the review article states: "A report by [REDACTED] be introduced into a peptide sequence by using [REDACTED]." Although the authors of the review article cite to the petitioner's work, their comment does not differentiate the petitioner's findings from those of the numerous other researchers whose work was also cited in the review article and it is not sufficient to demonstrate that the petitioner's work was of major significance to the field.

Dr. [REDACTED] further states:

At her current position at the [REDACTED], she has been a part of the [REDACTED] [REDACTED] and has played a leading role in developing imaging agents to image [REDACTED] receptors. Detection of [REDACTED] receptors in breast cancer is an indicator of an aggressive type of breast cancer. Early detection of [REDACTED]-positive breast cancer is very helpful to clinical doctors to design better treatment regimen for breast cancer patients.

Dr. [REDACTED] comments on the petitioner's work at the [REDACTED] to develop chemical agents for imaging [REDACTED] receptors, but he does not provide specific examples of how the petitioner's findings have been implemented as a diagnostic protocol with corresponding improvement in patient outcomes, or were otherwise indicative of contributions of major significance in the field.

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Dr. [REDACTED] Director of [REDACTED] Texas, states:

In an article entitled “[REDACTED] [the petitioner] and her colleagues discuss projects they conducted using the [REDACTED] that [the petitioner] synthesized herself using novel methods. . . . Thus, when injected into a patient, the affibody will bind to the [REDACTED] receptors in the tumors and will show up on a PET scan, alerting doctors to the presence of cancer in the body. [The petitioner’s] agent was tested in mice bearing human breast cancer tumors with varying levels of [REDACTED] expression. Due to the high affinity of the [REDACTED], [the petitioner] was able to obtain high contrast images of the tumors in mice. The affibody was also found to be useful in quantitatively discerning the varying levels of [REDACTED] receptors expressed in the tissue. This is a pioneering result, as its high accuracy and image quality is like nothing doctors have seen before.

Dr. [REDACTED] states that the petitioner synthesized a [REDACTED] that provided high contrast images of tumors in mice and was “found to be useful in quantitatively discerning the varying levels of [REDACTED] receptors expressed in the tissue.” Dr. [REDACTED] however, does not identify imaging centers that have successfully utilized the petitioner’s affibody when administering PET scans, or cancer centers where the petitioner’s chemical agent has already had an effective track record of accuracy in tumor diagnosis. In addition, Dr. [REDACTED] asserts that the petitioner’s work achieved “a pioneering result, as its high accuracy and image quality is like nothing doctors have seen before,” but there is no documentary evidence showing that physicians are utilizing the petitioner’s methodology at a level indicative of a contribution of major significance in the field.

Dr. [REDACTED] Professor of Radiology and Radiation Oncology, [REDACTED] Pennsylvania, states:

While working at three prominent institutions, including the [REDACTED] [the petitioner] has contributed extensively to the field of cancer diagnosis and treatment through her expertise in chemistry. Her innovative approach to address complex issues in Chemistry have been recognized by her peers as outstanding. [The petitioner] has published nine articles in high impact peer-reviewed scientific journals, which to date, have been cited by one hundred and thirty nine well established investigators, working in similar fields worldwide. These citations are a strong indication of the influence these articles have exerted on the field of cancer research. In particular, [the petitioner’s] contribution in the field of [REDACTED] is strongly recognized.

Dr. [REDACTED] asserts that the petitioner “has contributed extensively to the field of cancer diagnosis and treatment,” that her work has “been recognized by her peers as outstanding,” and that her “contribution in the field of [REDACTED] conjugates in the imaging of [REDACTED] [REDACTED] is strongly recognized,” but he does not provide specific examples of how the petitioner’s findings have affected the imaging industry or research field in a major way, or how her work otherwise equates to original contributions of major significance in the field. USCIS need not

accept primarily conclusory assertions. *See 1756, Inc. v. U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications). We acknowledge that the petitioner's research articles have received a number of citations showing that others have taken notice of her work, but there is no documentary evidence showing that the petitioner's findings are of major significance to the field.

Dr. [REDACTED] Associate Professor, Department of Medicine, [REDACTED]

[REDACTED] states:

I am familiar with [the petitioner's] work because we are involved in similar areas of research and met recently at a conference. . . . [The petitioner] is involved in a variety of research projects that seek to improve the methods of diagnosing different types of cancer. . . . Through her research, [the petitioner] helped to design a peptide analog that was used to develop peptide-based diagnostic agents that detect melanomas with higher specificity than the usual diagnostic methods. This new diagnostic test is expected to help detect melanoma at earlier stages. Earlier detection will be greatly beneficial for melanoma patients and [the petitioner] has greatly contributed to the field by being an integral part of these cutting edge developments.

Dr. [REDACTED] states that the petitioner helped to design a peptide analog for developing peptide-based diagnostic agents that detect melanomas with higher specificity. In addition, Dr. [REDACTED] comments that the petitioner's "new diagnostic test is expected to help detect melanoma at earlier stages" and that [e]arlier detection will be greatly beneficial for melanoma patients," but he does not provide specific examples of how the petitioner's diagnostic method is already of major significance to the field. A petitioner cannot establish eligibility based solely on the expectation of future eligibility. *Matter of Katigbak*, 14 I&N Dec. at 49.

Dr. [REDACTED] Researcher, [REDACTED]

[REDACTED] Italy, states:

[The petitioner] and her research team focused on the development of peptide-based diagnostic agents with a higher specificity toward melanoma, which she theorized would expedite the detection of melanoma in its earliest stages. . . . [The petitioner] was primarily responsible for designing this peptide with a unique lactam bridge cyclized analogs of alpha melanoma stimulating hormone and developing methodology to construct these peptides with 67-Ga or 111-In radionuclides. The cyclic design of the peptides resulted in lesser conformational freedom available to the peptide, leading to a better fit of the peptide inside the melanocortin-1 (MC1) receptors, consequently producing an increased affinity of the peptide to the receptor.

* * *

This work has provided numerous interesting compounds that had considerable internalization into B16/F10 cells and were taken up into metastatic melanoma tumors in animal studies. Intriguingly, by the substitution of In-111 radionuclide with Ga-67, the Ga-

67-DOTA-Glu-Gly-CycMSH showed great promise in detection of melanoma tissue earlier than the In-111 DOTA-Glu-Gly-CycMSH peptide. This compound is useful for developing therapeutic agents that target melanoma by radiolabeling with a therapeutic radionuclide.

Dr. [REDACTED] states that the petitioner's peptide design produced an increased affinity of the peptide to the receptor and has shown "great promise in detection of melanoma tissue earlier than the In-111 DOTA-Glu-Gly-CycMSH peptide," but he does not identify any successful therapeutic agents for targeting melanoma that have already resulted from the petitioner's work. Again, a petitioner cannot establish eligibility based solely on the expectation of future eligibility. *Matter of Katigbak*, 14 I&N Dec. at 49. There is no documentary evidence showing that the petitioner's peptide design rises to the level of an original contribution of major significance in the field.

Dr. ([REDACTED] Assistant Research Professor, [REDACTED] [REDACTED] states:

First time I met [the petitioner] in 2008 when I was a postdoctoral fellow at [REDACTED] [REDACTED] the [REDACTED] . . . We developed together a project that focused on the characterization of Affibody-based molecular probes for detection of epidermal growth factor receptors [REDACTED] overexpressed in several types of cancer.

As a part of [REDACTED] [the petitioner] played a leadership role in our collaborative research efforts. . . . Undauntedly, she played a critical role in the synthesis and development of [REDACTED] [REDACTED] molecules, specifically targeting [REDACTED] receptors in breast cancer. This proved to have a significant impact on early tumor detection, image-guided intervention, as well as assessment of the efficacy of targeted therapies. Her excellent work on this project led to a joint publication in [REDACTED] a highly ranked journal in the research area of Radiology, Nuclear Medicine, and Molecular Imaging. Importantly, not only academia benefits from her work but it also opens new avenues for health services, imaging industry, pharmaceutical companies to exploit.

Dr. [REDACTED] states that the petitioner helped synthesize and develop [REDACTED] molecules for targeting [REDACTED] receptors in breast cancer and that they published their work in [REDACTED] According to the submitted Google Scholar citation information, their article has been cited to 20 times since 2011. Again, the petitioner has not established that this level of citation is indicative of a contribution of major significance in the field. In addition, Dr. [REDACTED] asserts that the petitioner's work "opens new avenues for health services, imaging industry, pharmaceutical companies to exploit," but there is no documentary evidence showing that health services companies, the imaging industry, and pharmaceutical companies have already utilized the petitioner's affibody molecules at a level commensurate with contributions of major significance in the field.

Dr. [REDACTED] Research Assistant Professor, [REDACTED] states:

In our 2003 paper, [the petitioner] and I developed a shorter, more efficient method to synthesize [REDACTED] . . . This project is highly

significant in that the [REDACTED] conjugate we synthesized using [REDACTED] has a very strong affinity for bcl-2 genes which are overexpressed in patients with [REDACTED]

Dr. [REDACTED] states that he and the petitioner “developed a shorter, more efficient method to synthesize [REDACTED] conjugates” and that the [REDACTED] conjugate they synthesized “has a very strong affinity for bcl-2 genes which are overexpressed in patients with [REDACTED] but he does not provide specific examples of how their method for synthesizing [REDACTED] conjugates has been utilized by others in the field, how their peptide-PNA conjugate has affected diagnostic protocols for patients with [REDACTED] or how their work was otherwise of major significance to the field.

Dr. [REDACTED] further states:

In the 2002 paper, we used our previous peptide as the basis for developing a peptide-based detection method for the skin cancer melanoma. The peptide is combined with peptide nucleic acid to form a [REDACTED] conjugate, and the conjugate is designed to be complementary with BCL-2 genes, which are known markers for melanoma. We demonstrated that the conjugate bound well with BCL-2 and that it is thus an effective tool in diagnosing melanoma. Further, it is also useful in developing targeted therapies for melanoma.

Dr. [REDACTED] asserts that he and the petitioner’s peptide-based detection method for melanoma is “an effective tool in diagnosing melanoma” and is “useful in developing targeted therapies for melanoma.” There is no documentary evidence showing, however, that their method has led to widespread changes in diagnostic methods for melanoma with corresponding improvement in patient outcomes, or has otherwise been indicative of contributions of major significance in the field

The petitioner submitted letters of varying probative value. We have addressed the specific assertions above. Generalized conclusory assertions that do not identify specific contributions or their impact in the field have little probative value. *See 1756, Inc. v. U.S. Att’y Gen.*, 745 F. Supp. at 17. In addition, uncorroborated assertions are insufficient. *See Visinscaia*, 2013 WL 6571822, at *6 (upholding USCIS’ decision to give limited weight to uncorroborated assertions from practitioners in the field); *Matter of Caron Int’l, Inc.*, 19 I&N Dec. 791, 795 (Comm’r 1988) (holding that an agency “may, in its discretion, use as advisory opinions statements . . . submitted in evidence as expert testimony,” but is ultimately responsible for making the final determination regarding an alien’s eligibility for the benefit sought and “is not required to accept or may give less weight” to evidence that is “in any way questionable”). 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 petitioner’s eligibility. *Id. 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”).

The petitioner submitted an internet printout from [REDACTED] website reflecting that the [REDACTED] is available for sale on the company’s website, but there is no evidence from the company identifying the petitioner as the product’s creator

or intellectual property documentation listing her as the inventor. Regardless, there is no documentary evidence showing that her development of the ligand rises to the level a contribution of major significance in the field.

In addition, the petitioner submitted evidence of several patents and patent applications whose inventors cite to the petitioner's work. The submitted documentation reflects that the inventors similarly referenced numerous other studies and their authors. For example, U.S. Patent Application Publication US [REDACTED] listed the petitioner's work as the [REDACTED] references cited. While the submitted patent documentation shows that the inventors' acknowledged the petitioner's findings, there is no evidence demonstrating that the petitioner's specific work was commensurate with contributions of major significance in the field.

The petitioner also submitted a copy of an [REDACTED] that was published in [REDACTED] Volume 38, Issue 11. In that same journal issue, the petitioner coauthored the article "6 [REDACTED]" [REDACTED]. The editorial commentary mentions the petitioner's article and a second research article published in that issue of the journal. With regard to the petitioner's article, the commentary states:

In the present issue of the [REDACTED], report on the ability of a [REDACTED] [REDACTED] molecule to detect different levels of [REDACTED] expression in subcutaneous human breast cancer tumours implanted in athymic nude mice. The authors observed a good correlation between PET imaging, biodistribution estimates of tracer concentration and the receptor expression [11]. These results are not unexpected, as the authors demonstrated in a previous study that ¹⁸F-labelled Affibody molecules can be used successfully in the assessment of [REDACTED] expression in vivo and in monitoring its possible change in response to therapeutic interventions [12]. However, the use of [REDACTED] is very attractive as it is continuously available at a reasonable cost from [REDACTED] generators. The 270-day half-life of the parent allows the use of a generator for a long period, potentially up to 1 year or even longer; this could be of great benefit especially for centres without a cyclotron [13].

The preceding editorial commentary reflects endorsement of the petitioner's article by the journal's editors, but it is not sufficient to demonstrate that the petitioner's findings were of major significance to the field. The authors assert that the petitioner's work "could be of great benefit" for imaging centers without a cyclotron, but they do not point to specific examples of how the petitioner's work has already had this effect. For example, there is no documentary evidence demonstrating that the petitioner's methodology has already been successfully implemented at a substantial number of cancer imaging centers, or that her work has otherwise risen to the level of contributions of major significance in the field.

The petitioner also points to a [REDACTED] that mentions the petitioner's work entitled [REDACTED]. The single paragraph mentioning the petitioner's work explains how the [REDACTED] has impacted other components within the [REDACTED], but the paragraph does not explain

how the petitioner's specific work has affected diagnostic protocols outside of the [REDACTED], or was otherwise of major significance to the field. The plain language of this regulatory criterion requires that the petitioner's contributions be "of major significance in the field" rather than limited to her employer.

Without additional, specific evidence showing that the petitioner's original work has been unusually influential, widely implemented throughout her field, or has otherwise risen to the level of contributions of major significance, the petitioner has not established that she meets this regulatory criterion.

Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.

The petitioner has documented her authorship of scholarly articles in professional publications and, thus, has submitted qualifying evidence pursuant to 8 C.F.R. § 204.5(h)(3)(vi). Accordingly, the evidence supports the director's finding that the petitioner 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. Although we conclude 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, we need not explain that conclusion in a final merits determination.³ Rather, the proper conclusion is that the petitioner has failed to satisfy the antecedent regulatory requirement of three categories of evidence. *Id.* at 1122.

³ The AAO conducts appellate review on a *de novo* basis. *See Siddiqui v. Holder*, 670 F.3d 736, 741 (7th Cir. 2012); *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004); *Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989). 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*

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

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.