



U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **JUN 08 2015**

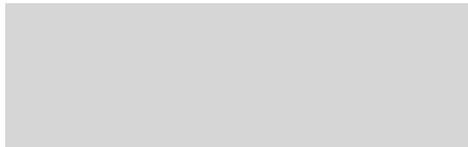
FILE #: [REDACTED]

PETITION RECEIPT #: [REDACTED]

IN RE: Petitioner: [REDACTED]
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:



Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter 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 the sciences, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), which makes visas available to aliens who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation. The director determined that the petitioner had not satisfied the initial evidence requirements set forth at 8 C.F.R. § 204.5(h)(3), which requires documentation of a one-time achievement or evidence that meets at least three of the ten regulatory criteria.

On appeal, the petitioner submits a brief with additional documentary evidence. For the reasons discussed below, we agree that the petitioner has not established his eligibility for the exclusive classification sought. Specifically, the petitioner has not submitted qualifying evidence of a one-time achievement pursuant to 8 C.F.R. § 204.5(h)(3), or evidence that satisfies at least three of the ten regulatory criteria set forth in 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 in the field of endeavor, and that he has sustained national or international acclaim. *See* 8 C.F.R. § 204.5(h)(2), (3). Accordingly, we will dismiss the petitioner’s appeal.

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) sets forth a multi-part analysis. First, a petitioner can demonstrate the petitioner’s sustained acclaim and the recognition of the petitioner’s achievements in the field through evidence of a one-time achievement (that is, a major, internationally recognized award). If the petitioner does not submit this evidence, then a petitioner must submit sufficient qualifying evidence that meets at least three of the ten categories of evidence listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

The submission of evidence relating to at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the evidence is first counted and then, if satisfying the required number of criteria, considered in the context of a final merits determination). *See also Rijal v. USCIS*, 772 F.Supp.2d 1339 (W.D. Wash. 2011) (affirming USCIS’ proper application of *Kazarian*), *aff’d*, 683 F.3d 1030 (9th Cir. 2012); *Visinscaia v. Beers*, 4 F.Supp.3d 126, 131-32 (D.D.C. 2013) (finding that USCIS appropriately applied the two-step review); *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010) (holding that the “truth is to be determined not by the quantity of evidence alone but by its quality” and that USCIS examines “each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true”).

II. ANALYSIS

A. Evidentiary Criteria¹

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

This criterion contains several evidentiary elements the petitioner must satisfy. According to the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i), the evidence must establish that the petitioner is the recipient of the prizes or the awards. The clear regulatory language requires that the prizes or the awards are nationally or internationally recognized. The plain language of the regulation also requires the petitioner to submit evidence that each prize or award is one for excellence in the field of endeavor rather than simply for participating in or contributing to an event or to a group. The petitioner must satisfy all of these elements to meet the plain language requirements of this criterion.

¹ We have reviewed all of the evidence the petitioner has submitted and will address those criteria the petitioner claims to meet or for which the petitioner has submitted relevant and probative evidence.

The petitioner initially asserted that three awards qualify him under this criterion. The director determined that the petitioner did not meet the requirements of this criterion. Specifically, the director concluded that the petitioner had not submitted evidence demonstrating the selection criteria for each award, nor did the petitioner submit evidence demonstrating who performed the selection of the award recipients.

The petitioner submitted evidence that the [REDACTED] awarded him the New Investigator Travel Award to attend the [REDACTED]. This was a \$500 award to compensate the award recipients' travel expenses. In response to the director's RFE, the petitioner submitted evidence that 21 new investigators won this travel award in 2011. On appeal, the petitioner asserts that the [REDACTED] Final Program, which he submitted in response to the director's RFE, demonstrates that the abstracts were graded by 17 highly trained individuals. While the evidence does not demonstrate that all 17 judges reviewed and graded each abstract, it demonstrates that at least one qualified expert graded his abstract.

Even if all 17 judges graded his abstract, the number of judges and their qualifications alone are not sufficient to establish this travel award, awarded to 21 new investigators in 2011, is nationally or internationally recognized in the field. We will not presume that all awards from a panel of qualified individuals are nationally or internationally recognized. The petitioner should also submit probative evidence demonstrating that the awards are recognized in the field beyond the issuing entity. On appeal, the petitioner also provides a letter from the [REDACTED] dated June 11, 2014. Within this letter, [REDACTED] the [REDACTED] Program Manager indicates that the organization issues this award to "top abstract scores." Ms. [REDACTED] does not provide any details relating to the methodology or criteria the [REDACTED] utilizes to score abstracts or the pool of candidates for the travel award specifically. Even if the [REDACTED] utilizes the same grading criteria as it does to select which abstracts continue to the subsequent conference, this evidence is not sufficient to establish the petitioner's travel award that provided financial assistance in traveling to the conference is nationally or internationally recognized. The petitioner did not submit evidence that the general media or professional media in his field covered the award selections.

The petitioner also references an AAO administrative decision that he asserts addresses a situation similar to the scenario in his case. While 8 C.F.R. § 103.3(c) provides that AAO precedent decisions are binding on all USCIS employees in the administration of the Act, unpublished decisions are not similarly binding. Regardless, the nonbinding case the petitioner references involves artistic awards that are used in the marketing of motion pictures both domestically and internationally. Additionally, the awards honor artists whose work directly influences a film's Oscar consideration and box office success. Notably, the [REDACTED] covers the awards. Ultimately, this office concluded that the awards in the nonbinding decision were nationally recognized honors based on the recognition in the field of the award's impact. The petitioner has not demonstrated any such impact based on his abstract. The petitioner also cites to USCIS policy which lists the criteria used to grant an award as possible evidence to demonstrate an award is issue for excellence in the field. The petitioner did not submit the criteria the [REDACTED] utilizes to issue travel awards. Instead, Ms. [REDACTED] discusses the criteria utilized in the

selection process for the abstracts that are selected for the Best of [REDACTED] Specialty Conferences Poster Session discussed below.

The petitioner's abstract referenced above competed against approximately 4,000 other abstracts in the [REDACTED] finishing among the top 400, or top ten percent. As a result, the petitioner was asked to present at another [REDACTED] conference, the Best of [REDACTED] Specialty Conferences Poster Session. According to an email the petitioner submits on appeal, this second conference is the "premier cardiovascular conference in the world." Regardless, the prestige of the conference does not establish that selection as of one of 400 posters for presentation at the conference is a nationally or internationally recognized award for excellence. The petitioner has not demonstrated that he received an award or prize at the second conference.

Even if we were persuaded to characterize the selection as one of 400 posters for presentation at a conference as a prize or an award, the record lacks evidence that the petitioner's presentation at the Best of [REDACTED] Specialty Conferences Poster Session constitutes a prize or an award that is nationally or internationally recognized. On appeal, the petitioner asserts that this award is significant because the [REDACTED] is the issuing entity and because the [REDACTED] the petitioner's prior employer, archived its website posting of his selection to present his abstract at the subsequent conference. That the petitioner's own employer posted his selection on their website, which retains the posting among the archived news items, is not evidence of a wider recognition of the award in the field beyond the petitioner's employer. National and international recognition results, not from the entity that issued the prize or the award, but through the awareness of the accolade in the eyes of the field nationally or internationally. This recognition can occur through specific means; for example, through media coverage. A national or international level competition may issue lesser awards that merely receive local or regional recognition, which do not meet the plain language requirements of this criterion. Unsupported conclusory letters from those in the petitioner's field and a posting on the website of the recipient's employer, are not sufficient evidence that a particular prize or award is nationally or internationally recognized.

Consequently, the petitioner has not submitted evidence that meets the plain language requirements of this criterion.

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.

The director discussed the evidence submitted for this criterion and found that the petitioner did not establish his eligibility. On appeal, the petitioner does not contest the director's findings for this criterion or offer additional discussion. Therefore, the petitioner has abandoned his eligibility claims under this criterion. *Sepulveda v. U.S. 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 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 submitted qualifying evidence under this 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.

The director discussed the evidence submitted for this criterion and found that the petitioner did not establish his eligibility. On appeal, the petitioner does not contest the director's findings for this criterion or offer additional discussion. Therefore, the petitioner has abandoned his eligibility claims under this criterion. *Sepulveda* 401 F.3d at 1228 n.2; *Hristov*, 2011 WL 4711885, at *9. Accordingly, the petitioner has not submitted qualifying evidence under this criterion.

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.

The director determined the petitioner met the requirements of this criterion. The petitioner has submitted sufficient evidence, including evidence he has reviewed manuscripts in the [REDACTED], to establish that he meets this criterion.

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

The plain language of this regulatory criterion contains multiple evidentiary elements that the petitioner must satisfy. The first is evidence of the petitioner's contributions in his field. These contributions must have already been realized rather than being potential, future contributions. The petitioner must also demonstrate that his contributions are original. The evidence must establish that the contributions are scientific, scholarly, artistic, athletic, or business-related in nature. The final requirement is that the contributions rise to the level of major significance in the field as a whole, rather than to a project or to an organization. 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). Contributions of major significance connotes that the petitioner's work has significantly impacted the field. *See* 8 C.F.R. § 204.5(h)(3)(v); *see also Visinscaia*, 4 F. Supp. 3d at 135-136. The petitioner must submit evidence satisfying all of these elements to meet the plain language requirements of this criterion.

After thoroughly discussing the petitioner's eligibility claims, the director determined that the petitioner did not meet the requirements of this criterion. The director discussed four letters, and summarized the remaining letters. It is not erroneous that a USCIS decision does not cite from each and every letter in support of a petition. *Noroozi v. Napolitano*, 905 F.Supp.2d 535, 545 (S.D.N.Y. 2012) (citing *Chen v. U.S. Dep't of Justice*, 471 F.3d 315, 338 n. 17 (2d Cir.2006)). The director's decision indicated that letters alone are not sufficient probative evidence to satisfy this criterion, and that the record lacked evidence to corroborate the assertions within the expert letters. On appeal, the petitioner expresses disagreement with the director's methodology and conclusions.

The petitioner's appellate brief first points to the letter from Dr. [REDACTED] Professor with the Department of Physics at the [REDACTED] and provides quotes from the letter. Dr. [REDACTED] confirms that the petitioner began at the university as a postdoctoral fellow and then was employed as a research scientist. Dr. [REDACTED] indicates the petitioner's research in heart and blood disorders resulted in the petitioner publishing articles in respected research journals. Dr. [REDACTED] does not, however, describe how the petitioner's published works resulted in significant impacts within the field. Dr. [REDACTED] also describes how the petitioner's abstract finished in the top ten percent of abstracts at the [REDACTED] in 2010, but offered no indication of how this work significantly impacted the field upon dissemination.

Dr. [REDACTED] also indicates the petitioner's pioneering work relating to [REDACTED] systems has been presented at several national and international conferences, but offers no examples of the impact of such presentations. While Dr. [REDACTED] states the petitioner's work with novel nanomaterials is significant for the development of [REDACTED] markers, he closes this same paragraph indicating this work will be highly beneficial for improved national security and for patients treated with medical laser technology. According to this last statement, the petitioner's work bears great importance in the petitioner's field as well as in the field of chemical detection, but has not yet made such a significant impact within the petitioner's field as required by the regulation. That the petitioner will provide a prospective benefit to the United States as a permanent resident is a statutory requirement. *See* section 203(b)(1)(A)(iii) of the Act. This criterion, however, requires the petitioner to demonstrate realized contributions.

Dr. [REDACTED] does not, however, identify how the petitioner has already made a significant impact in his field, which is required by this regulatory criterion. A petitioner must establish the elements for the approval of the petition at the time of filing. 8 C.F.R. § 103.2(b)(1), (12). A petition may not be approved if the beneficiary was not qualified at the priority date, but expects to become eligible at a subsequent time. *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971).

The petitioner also provides a brief quote from [REDACTED] Professor of Medicine and Consultant Physician at the [REDACTED] who affirms a collaboration with the petitioner. The provided quote also describes a potential future benefit from the petitioner's work. Dr. [REDACTED] states: "Our proposed studies will provide the first preclinical system for monitoring the development and progression of multiple diabetic complications, especially neuropathy and will also greatly facilitate the assessment of novel therapies via [High Throughput Screening]." Benefits that may come to fruition at some future time are not qualifying elements under this criterion as the regulation at 8 C.F.R. § 204.5(h)(3)(v) does not allow prospective contributions of major significance in the field. *Id.*

The petitioner also provides a quote from Professor [REDACTED] from the [REDACTED] that describes how the petitioner played a vital role in building a low cost zebrafish facility at the university. Dr. [REDACTED] also indicates the petitioner coauthored and published a paper describing these results and that other laboratories have built facilities based on the petitioner's system. While this constitutes an original contribution, the record lacks evidence demonstrating that this contribution is of major significance in the petitioner's field. That the petitioner has helped add to the knowledge within the field is a notable accomplishment, but without evidence of how this knowledge has significantly impacted the field, it is not sufficient to meet this criterion's requirements. Additionally, the petitioner

has not provided probative documentary evidence confirming Dr. [REDACTED] assertion that other facilities utilized the petitioner's system and describing the extent of their reliance on the petitioner's work. 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 (Assoc. Comm'r 1998).

The quote the petitioner provides from Dr. [REDACTED] Senior Scientist at [REDACTED], implies that the citation of the petitioner's work in a 2012 article demonstrates that the petitioner's work constitutes a contribution of major significance in the field. However, a review of this review article titled, "[REDACTED]" reveals that the citation to the petitioner's work only appears one time in the introductory paragraph and is contained within a cite to multiple other sources for the proposition that a "wide variety of tools and reagents have been developed for *in vivo* labeling and imaging of blood cells and for investigating blood cell function." This citation is insufficient to demonstrate the petitioner's impact in the field. Further, the article is a review article that briefly discusses multiple recent studies rather than either a review article singling out the petitioner's work as influential or a research article that builds on the petitioner's work. As this review article summarizes the current state of research, instead of reporting a researcher's original findings that build on the petitioner's work, it does not demonstrate actual reliance on the petitioner's work.

The petitioner also discusses the letter from Dr. [REDACTED] Professor of Pathology at the [REDACTED]. Dr. [REDACTED] indicates that the petitioner's research has been influential, a major breakthrough, and has been cited extensively. Regarding the petitioner's work being influential, Dr. [REDACTED] explains that the petitioner developed a novel method, using a laser induced thrombosis, for observing hemostasis. Dr. [REDACTED] indicates that this "greatly simplified research in the area and allowed make [sic] further discoveries regarding" [REDACTED] research. Dr. [REDACTED] does not specify what further discoveries this finding enabled, beyond confirming its influence on his own study. While Dr. [REDACTED] clearly found the petitioner's methods useful, his letter does not demonstrate the petitioner's influence beyond a single independent institution in Texas.

Dr. [REDACTED] also states that the petitioner's research into [REDACTED] led to a "huge breakthrough" in the field, and that this research has already been cited quite extensively but only provides the names of two laboratories. As discussed below the petitioner's citation record does not document that any one of the petitioner's articles has garnered extensive citations. Dr. [REDACTED] closes his letter stating the petitioner's "research contributions are extraordinary . . . He has risen to the top of his field in blood disorders as evidenced by his discoveries . . ." That Dr. [REDACTED] repeats the language of the statute or regulations within the letter does not satisfy the petitioner's burden of proof. *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*, 1997 WL 188942 at *5 (S.D.N.Y.). Similarly, USCIS need not accept primarily conclusory assertions. *1756, Inc. v. Att'y Gen*, 745 F. Supp. 9, 17 (D.D.C. 1990).

██████████, Assistant Professor at the ██████████ indicates within his letter that the petitioner's work has contributed significantly to drug discovery techniques relating to diabetes using the zebrafish model. Dr. ██████████ indicates the petitioner developed a key advancement in drug testing that is "one of the most novel research tools in the field" that allows researchers to "assess the effects of a huge library of FDA approved drugs from ██████████." Dr. ██████████ letter lacks an explanation of how widespread the use of the petitioner's development has been in the field. Dr. ██████████ also indicates that he has taken an interest in the petitioner's work and that he plans on using the petitioner's work in his own projects, but he provide no details on how he has already been impacted by the petitioner's work.

Dr. ██████████ also discusses the petitioner's work relating to how minerals interact with kidneys. Dr. ██████████ asserts the petitioner has devised a test that exclusively detects a medical condition believed to cause an increase in kidney stone production. Dr. ██████████ indicates that this work is important and is evidenced by being cited in "the prestigious ██████████." The petitioner's ██████████ article, however, has itself only garnered minimal citations despite being included in this text.

The letter from ██████████ Interim Dean of the Graduate School of Biomedical Sciences at the ██████████ also discusses the petitioner's drug discovery techniques relating to diabetes using the zebrafish model mentioned by Dr. ██████████ above. Dr. ██████████ account of the petitioner's actions relating to drug testing against the ██████████ matches the description within Dr. ██████████ letter. Dr. ██████████ states that the petitioner produced more accurate results and discovered additional compounds from this testing. Dr. ██████████ does not explain how this testing methodology has impacted the field at large, beyond the tests the petitioner performed. While Dr. ██████████ indicates that the petitioner's research has significantly advanced the knowledge in the field of drug discovery, he has not sufficiently described such an impact in the field as a whole.

The director's decision also discussed the letters from ██████████, Professor at the ██████████ and ██████████ Associate Professor in Medicine at the ██████████. The director quoted from these and other letters and focused on Dr. ██████████ letter in which he first characterizes the petitioner's techniques as "landmark for novel diagnostics in cardiovascular biology," but supports that characterization by stating that the continuation of this work will be beneficial to the field in the future. The director concluded that Dr. ██████████ account of the petitioner's accomplishments are not qualifying under this criterion as the petitioner must demonstrate he has already made significant contributions in the field as of the petition filing date.

On appeal, the petitioner asserts that the director found that Dr. ██████████ statement that the petitioner's efforts will benefit the field in the future outweighed the testimony of "no fewer than ten other experts who demonstrated that [the petitioner's] contributions had a significant impact on his colleagues." However, even considering all of the expert letters, the petitioner has not demonstrated an impact consistent with a contribution of major significance in his field. The remaining letters repeat the petitioner's achievements listed above, highlight the petitioner's efforts in setting up the aquatic facility, or indicate the authors' support for his permanent residency in the United States.

The petitioner also asserts that his citation record contributes to him meeting this criterion's requirements. Within the appeal the petitioner identifies documentation he submitted in response to the director's RFE as qualifying evidence. The director's decision notes that the petitioner's combined published works had been cited a moderate number of times as of the petition filing date, and while this moderate citation record is a positive factor in the petitioner's case, it was not sufficient to demonstrate the petitioner's published works had impacted the field at a level commensurate with a contribution of major significance. In response, the petitioner's appellate brief states that due to the interdisciplinary nature of the petitioner's work, his "citation numbers are actually *twice* that of the average interdisciplinary researcher." (Emphasis in the original.) Specifically, counsel asserts that the petitioner's articles have garnered an average of 11.25 citations, more than twice the multidisciplinary average of 4.98. The petitioner, however, had garnered a total of 59 citations for seven articles as of the date he responded to the RFE, which produces an average of 8.42 when considering only those articles that garnered citations. Calculating his average for all of his articles, including those that have not been cited, reduces his average to 6.56. Accordingly, the petitioner has not demonstrated that his average citation rate per article is 11.25 or even that his citation rate per cited article of 8.42 is meaningful as it does not take into account his uncited articles.

While the petitioner's overall average citation rate per article is slightly above average for multidisciplinary researchers and he has authored four articles that have garnered citations above the average rate, not every article cited at a level above the average rate represents work that has had an impact consistent with a contribution of major significance in the petitioner's field. The petitioner has not demonstrated the citation rate for articles that have had a demonstrable impact in the field. As such, the petitioner's citation record falls short of establishing that his work as a whole constitutes a contribution of major significance.

It is not enough to be skillful and knowledgeable and to have others attest to those qualities. The petitioner must have demonstrably impacted his field in order to meet this regulatory criterion. *See* 8 C.F.R. § 204.5(h)(3)(v); *see also Visinscaia*, 4 F. Supp. 3d at 134. The reference letters submitted by the petitioner discuss his findings and his activities, but they do not provide specific examples of how the petitioner's work has significantly impacted the field at large or otherwise constitutes original contributions of major significance.

The Board of Immigration Appeals (BIA) has stated that testimony should not be disregarded simply because it is "self-serving." *See, e.g., Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing *Matter of M-D-*, 21 I&N Dec. 1180 (BIA 1998); *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998); *Matter of Dass*, 20 I&N Dec. 120 (BIA 1989); *see also Matter of Acosta*, 19 I&N Dec. 211, 218 (BIA 1985)). The Board clarified, however: "We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available." *Matter of S-A-*, 22 I&N Dec. at 1332. If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. at 1136.

Vague, solicited letters from local colleagues that do not specifically identify contributions or provide specific examples of how those contributions influenced the field are insufficient. *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 reiterated the conclusion that “letters from physics professors attesting to [the petitioner’s] contributions in the field” was insufficient was “consistent with the relevant regulatory language.” 596 F.3d at 1122. The opinions of experts in the field are not without weight and have been considered above. While such letters can provide important details about the petitioner’s skills, they cannot form the cornerstone of a successful extraordinary ability claim. 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 the petitioner’s eligibility for the benefit sought. *Id.* The submission of letters from experts 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. *See id.* at 795; *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” but rather is admissible only if it will assist the trier of fact to understand the evidence or to determine a fact in issue). USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795; *see also Matter of Soffici*, 22 I&N Dec. at 165 (citing *Matter of Treasure Craft of California*, 14 I&N Dec. at 190). *See also Visinscaia*, 4 F.Supp.3d at 134-35 (concluding that USCIS’ decision to give limited weight to uncorroborated assertions from practitioners in the field was not arbitrary and capricious). While letters authored in support of the petition have probative value, they are most persuasive when supported by evidence that already existed independently in the public sphere. While the petitioner submitted letters from independent researchers and citations, the content of the letters and the level of citation are not indicative of the petitioner’s contributions of major significance in the field.

For all the reasons discussed above, the petitioner has not submitted evidence that meets this criterion’s requirements.

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

The director determined the petitioner met the requirements of this criterion. The petitioner has submitted sufficient evidence, to include multiple articles the petitioner authored, published in scholarly journals, to establish that he meets this criterion.

B. Summary

For the reasons discussed above, we agree with the Director that the petitioner has not submitted the requisite initial evidence, in this case, evidence that satisfies three of the ten regulatory criteria.

III. CONCLUSION

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the petitioner has achieved sustained national or international acclaim and is one of the small percentage who has risen to the very top of his or her 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. As the petitioner has not done so, the proper conclusion is that the petitioner has failed to satisfy the antecedent regulatory requirement of presenting evidence that satisfied the initial evidence requirements set forth at 8 C.F.R. § 204.5(h)(3) and (4). *Kazarian*, 596 F.3d at 1122. Nevertheless, although we need not provide the type of final merits determination referenced in *Kazarian*, a review of the evidence in the aggregate supports a finding that the petitioner has not demonstrated the level of expertise required for the classification sought.²

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, the petitioner has not met that burden.

ORDER: The appeal is dismissed.

² We maintain *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, we maintain 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 §§ 103(a)(1), 204(b); 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).