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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: **APR 08 2014** OFFICE: TEXAS SERVICE CENTER

FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

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,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

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 AAO on appeal. The AAO will dismiss the appeal.

The petitioner seeks classification under section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner seeks employment as a biophysicist. At the time he filed the petition, the petitioner was a research associate at the [REDACTED]. He subsequently began working as a postdoctoral researcher at the [REDACTED]. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

On appeal, the petitioner submits a statement.

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

(2) Aliens Who Are Members of the Professions Holding Advanced Degrees or Aliens of Exceptional Ability. –

(A) In General. – Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

(B) Waiver of Job Offer –

(i) . . . the Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

The director did not dispute that the petitioner qualifies as a member of the professions holding an advanced degree. The sole issue in contention is whether the petitioner has established that a waiver of the job offer requirement, and thus a labor certification, is in the national interest.

Neither the statute nor the pertinent regulations define the term “national interest.” Additionally, Congress did not provide a specific definition of “in the national interest.” The Committee on the Judiciary merely noted in its report to the Senate that the committee had “focused on national interest by increasing the number and proportion of visas for immigrants who would benefit the United States economically and otherwise. . . .” S. Rep. No. 55, 101st Cong., 1st Sess., 11 (1989).

Supplementary information to regulations implementing the Immigration Act of 1990, P.L. 101-649, 104 Stat. 4978 (Nov. 29, 1990), published at 56 Fed. Reg. 60897, 60900 (Nov. 29, 1991), states:

The Service [now U.S. Citizenship and Immigration Services (USCIS)] believes it appropriate to leave the application of this test as flexible as possible, although clearly an alien seeking to meet the [national interest] standard must make a showing significantly above that necessary to prove the “prospective national benefit” [required of aliens seeking to qualify as “exceptional.”] The burden will rest with the alien to establish that exemption from, or waiver of, the job offer will be in the national interest. Each case is to be judged on its own merits.

In re New York State Dep’t of Transportation, 22 I&N Dec. 215, 217-18 (Act. Assoc. Comm’r 1998) (*NYS DOT*), has set forth several factors which must be considered when evaluating a request for a national interest waiver. First, a petitioner must establish that the alien seeks employment in an area of substantial intrinsic merit. *Id.* at 217. Next, a petitioner must establish that the proposed benefit will be national in scope. *Id.* Finally, the petitioner seeking the waiver must establish that the alien will serve the national interest to a substantially greater degree than would an available U.S. worker having the same minimum qualifications. *Id.* at 217-18.

While the national interest waiver hinges on prospective national benefit, the petitioner must establish that the alien’s past record justifies projections of future benefit to the national interest. *Id.* at 219. The petitioner’s assurance that the alien will, in the future, serve the national interest cannot suffice to establish prospective national benefit. The term “prospective” is included here to require future contributions by the alien, rather than to facilitate the entry of an alien with no demonstrable prior achievements, and whose benefit to the national interest would thus be entirely speculative. *Id.*

The USCIS regulation at 8 C.F.R. § 204.5(i)(2) defines “exceptional ability” as “a degree of expertise significantly above that ordinarily encountered” in a given area of endeavor. By statute, aliens of exceptional ability are generally subject to the job offer/labor certification requirement; they are not exempt by virtue of their exceptional ability. Therefore, whether a given alien seeks classification as an alien of exceptional ability, or as a member of the professions holding an advanced degree, that alien cannot qualify for a waiver just by demonstrating a degree of expertise significantly above that ordinarily encountered in his or her field of expertise.

The petitioner filed the Form I-140, Immigrant Petition for Alien Worker, on January 10, 2011. In an accompanying introductory statement, the petitioner described his work identifying a method for purifying ibuprofen, thereby preventing kidney damage caused by common pain relievers, and his studies of troponin, a protein involved in regulating the heartbeat. Further details appear in witness letters, to be discussed further below.

The petitioner’s field of research has substantial intrinsic merit. The benefit from his occupation is national in scope, because the research results appear in widely-published journals. National

dissemination of meritorious work meets only the first two prongs of the three-pronged *NYS DOT* national interest test. To meet the third prong, the petitioner must establish his impact and influence on the field.

The petitioner submitted letters from five witnesses. Three of the witnesses are associate professors at institutions where the petitioner has trained and/or worked. Specifically, Dr. [REDACTED] is at [REDACTED] where the petitioner was a postdoctoral researcher from 2006 to 2009; Dr. [REDACTED] is at the [REDACTED] where the petitioner was a research associate from 2009 to 2010; and Dr. [REDACTED] where the petitioner began working in 2010. The other two initial witnesses are Dr. [REDACTED] principal scientist at [REDACTED] and Professor [REDACTED]

The letters are not identical, but they contain similar assertions. Some of these similarities are evident from discussion of the journals that have published the petitioner's work. Prof. [REDACTED] stated:

Published by [REDACTED] – the world's leading publisher in science and medicine – on behalf of the [REDACTED] . . . boasts a strong impact factor of 3.264. It also ranks among the top 1% of all peer-reviewed journals by [REDACTED] Moreover, it includes an international editorial board with members from China, Germany, Russia, Japan, the United Kingdom, France, Singapore, Canada, Spain, and numerous other countries.

. . . [REDACTED] . . . boasts a strong impact factor of 2.787, placing it among the top 30% of all biotechnology journals.

Dr. [REDACTED] stated: "[REDACTED] (impact factor 3.319) is among the top 1% of all research journals by [REDACTED] and is published by [REDACTED] the world's leading publisher for science and medicine. Similarly, [REDACTED] boasts a strong impact factor of 2.596 and an international editorial board."

Dr. [REDACTED] stated: "[REDACTED] . . . ranks among the top 15% of all biochemistry journals. Likewise, [REDACTED] boasts a strong impact factor of 2.596 and includes an international editorial board with members from the United Kingdom, Israel, and the United States."

Dr. [REDACTED] emphasized different journals, but using similar wording, stating: "The [REDACTED] is ranked in the top 5% of all biochemistry journals, and [REDACTED] . . . boasts a strong impact factor of 3.226."

The letters contain factual assertions that the petitioner has not supported with supporting evidence. For instance, several letters purport to state the impact factor of [REDACTED] but provide different

numbers for it. In the absence of supporting evidence, the petitioner has not shown which (if any) of the conflicting figures is correct.

The witnesses focused on two of the petitioner's research achievements. Four of the witnesses discussed the petitioner's work relating to the chemical structure of ibuprofen, an ingredient in many over-the-counter pain relievers. Prof. [REDACTED] letter is a representative example of the discussion of this work. Prof. [REDACTED] stated:

[The petitioner] is recognized for advancing our ability to eliminate the risk of kidney damage associated with pain relievers. This risk is directly related to ibuprofen's chemical structure. Ibuprofen is a chiral molecule, meaning that it can exist in two conformations that are mirror images of one another . . . called enantiomers. Due to their similar structures, enantiomers are extraordinarily difficult to distinguish from one another. . . . Since no . . . technique was developed for separating ibuprofen enantiomers, pain relievers frequently contain both forms of ibuprofen enantiomer, even though only one enantiomer imparts the therapeutic benefit. The body must thus convert the non-therapeutic ibuprofen enantiomer into the therapeutic ibuprofen. It is complications that arise during this process that can debilitate the kidneys.

. . . An enzyme known as [REDACTED] was shown to successfully distinguish between enantiomers under precisely controlled physical and chemical conditions. However, these conditions could not be identified for ibuprofen because the chemical interactions between ibuprofen and [REDACTED] were not sufficiently understood.

In what is recognized as a major advance, [the petitioner] . . . performed a series of highly sophisticated enzymatic experiments . . . [and] thereby established precise conditions under which [REDACTED] is able to select the therapeutic ibuprofen.

In and of itself, this was a major breakthrough, yet [the petitioner] further built on this to characterize the precise molecular changes that enable [REDACTED] to distinguish the ibuprofen enantiomers under different condition. . . .

[The petitioner's] characterization of the effects of acidity on [REDACTED] definitively established the mechanisms through which this bio-molecule distinguishes the therapeutic ibuprofen molecule from its non-therapeutic enantiomer. This is a seminal advance, providing critical information that will enable us to remove the harmful form of ibuprofen. Published in a number of authoritative scientific journals . . . , the significance of [the petitioner's] findings has thus been widely recognized for clearing the pathway for the development of safer pain relievers.

Three of the four witnesses discussed the petitioner's work with the troponin protein complex. For example, Dr. [REDACTED] stated:

The heartbeat is the cyclic rhythm of cardiac muscle contraction and relaxation. This process relies on the flow of calcium through the heart muscle. The rhythmic cardiac process is regulated by troponin, a group of three proteins that gauges the level of calcium in heart muscle and responds by triggering the molecular cascade that causes heart muscle to either contract or relax. Mutations in troponin disrupt this process, destabilizing the heartbeat and leading to cardiovascular disease – the leading cause of death in the United States. Unfortunately, troponin function cannot be restored until these mutations and their precise effect on troponin function are identified. This requires a full understanding of troponin’s complex biochemical structure and function. Such an understanding had perplexed researchers for decades, because the constant structural changes that this molecule undergoes when calcium binds and dissociates from it rendered this task nearly impossible.

Applying a much more sophisticated technique, [the petitioner] was the first to fully characterize troponin’s intricate molecular structure and function. This technique, known as [REDACTED] . . . had never been used to characterize an entire molecule. . . . In a highly innovative advance, [the petitioner] used [REDACTED] to determine the precise distances between the different component pieces of the troponin complex. On this basis, he successfully mapped troponin at different stages in the heartbeat. [The petitioner] then used this information to determine how each piece of troponin contributes to heart muscle excitation and relaxation. It was through this original and painstaking technique that he was able to provide new information on how troponin may regulate heart muscle contraction.

. . . [The petitioner’s] breakthrough discoveries on troponin have greatly advanced treatment for heart muscle diseases, as evidenced by his publications and presentations and the attention that his work has received.

The witnesses stated that widespread citation demonstrates the importance of the petitioner’s published work. The petitioner also asserted that his “publications in leading peer-reviewed journals” have led to “numerous citations . . . in the published work of other scientists . . . in many leading scientific journals.”

The petitioner’s initial submission included the cover pages of four published articles by the petitioner, and abstracts of four of his conference presentations. The petitioner also submitted partial copies of seven articles containing citations to the petitioner’s published work, and a printout from the Google Scholar search engine identifying seven citations (including one self-citation by the petitioner). Two of the seven submitted articles (including the self-citation) appear on the citation list, and two other submitted articles contain self-citations by the petitioner’s co-authors. Subtracting these duplications and self-citations, the petitioner documented nine independent citations of his work since 2005.

The petitioner described some examples of these citations, stating, for instance: “a team of Indian researchers in the . . . detail [the petitioner’s] findings on the mechanisms through which targets ibuprofen, including his elucidation of the dynamics of the flap. They recognize [the petitioner’s] findings as a major advance in the study of the molecular dynamics of lipases.” The article is by’s research group. Dr. was also one of the petitioner’s co-authors, making the citation a self-citation. The petitioner submitted a copy of the citing article, with relevant passages highlighted. The highlighted passages did not describe the petitioner’s work “as a major advance.” All of the citing authors provided context for their citation of the petitioner’s work, but the highlighted portions of the articles did not indicate that the petitioner’s work is more significant than the dozens of other works cited in the articles’ bibliographies.

The petitioner asserted that the petitioner’s standing in the field is further evident from his selection “to serve as a manuscript reviewer for” The petitioner stated: “The practice of peer review is a vital one, carried out by all respectable scientific journals.” Three of the petitioner’s initial witnesses claimed that the invitation to review the article was “[b]ased on his recognized expertise.” The evidence that the petitioner provided does not support this statement.

The invitation to review an article for is in the form of an electronic mail message that reads, in part:

May I invite you, or one of your colleagues, to review a manuscript that has been submitted for publication to our on-line journal . . .

I would be extremely grateful if you or, perhaps, one of your co-workers could accept to review that manuscript. . . . If not, any recommendation of another qualified colleague familiar with the subject would be highly appreciated.

The petitioner did not establish the journal’s selection criteria for peer reviewers, and none of the petitioner’s witnesses claimed first-hand knowledge of those criteria. The invitation message does not indicate that the journal’s editors selected the petitioner specifically based on his personal reputation in the field, as the petitioner asserted. The invitation applied equally to unnamed “colleagues” and “co-workers.”

The evidence that the petitioner provided does not show that participation in peer review is a reflection of the petitioner’s reputation in his field. Witnesses’ claims that the invitation is “[b]ased on his recognized expertise” are unsupported.

The petitioner also stated: “in further recognition of his expertise, [the petitioner] was chosen as a grant reviewer for the The petitioner submitted no evidence from the to show that selection as a grant reviewer rests on “recognition of . . . expertise” rather than on other, more prosaic factors. The only evidence of the petitioner’s

grant review work is a printout from the [redacted] web site, thanking the petitioner for “agreeing to help [them] with peer review” and directing the petitioner to “training materials.”

The director issued a request for evidence (RFE) on September 9, 2011, stating that the petitioner had submitted “copies of a limited number of articles,” but “the impact those articles have had on the field is not demonstrated in the record.” The director stated that the petitioner had not yet established “a past record of specific prior achievement with some degree of influence on the field as a whole.”

In response, the petitioner stated that “the initial submission [included] detailed testimonials and substantial primary source documentation, all attesting to [the petitioner’s] past record of achievement and the continuing importance of his work.” The petitioner asserted that the witnesses’ “letters do far more than recognize [the petitioner] for developing the first method to distinguish the twin ibuprofen molecules; they also laud the inventiveness and originality of his approach.”

The documentary evidence that the petitioner provided does not give his work the same emphasis that the witness letters do. The claimed significance of the petitioner’s work with [redacted] and ibuprofen molecules is that his findings will reduce kidney damage that results from metabolism of ibuprofen enantiomers. Some of the petitioner’s published work on this subject dates back to 2003, eight years before the petition’s filing date, but the record includes no evidence that any manufacturer of ibuprofen-based pain relievers is using the petitioner’s methods or has expressed interest in doing so, or that the petitioner’s work has led to significant decreases in kidney damage caused by ibuprofen enantiomers.

The petitioner’s response to the RFE included three new witness letters. Dr. [redacted] discovery research specialist at [redacted], previously trained at [redacted] [redacted] shortly before the petitioner’s arrival there. Dr. [redacted] stated:

[The petitioner] determined the conditions under which the [redacted] [redacted] could select the therapeutic ibuprofen. . . . He published these findings . . . in [redacted] which stands among the top 16% of all journals according to [redacted] influence.

[The petitioner’s] pioneering methodology has been directly applied by other researchers for the development of safer and more effective pain relievers. For instance, his findings formed the basis of an Italian research study, published in the [redacted]. . . [B]y defining the precise conditions to isolate ibuprofen, [the petitioner] enabled these researchers to isolate [redacted]

. . . The importance of his contributions is immeasurable.

The petitioner’s initial submission included an article by Italian researchers ([redacted] from the [redacted]. The article, [redacted]

[REDACTED] cited the petitioner's work to support this assertion:

[REDACTED]

Reference [9] is the petitioner's article published in [REDACTED] in 2003. References [1] and [8] refer to articles published in 1998 and 1999, respectively. The introduction to the article cited nine articles in all; the text placed no special emphasis on the petitioner's article relative to the other cited sources.

The remaining two new letters both emphasized the same new claim about the petitioner's work. Dr. [REDACTED] director of [REDACTED] stated:

[The petitioner] determined that [REDACTED] must be carefully controlled in order for [REDACTED] to [filter out dangerous molecules from drugs]. By elucidating the activity of this critical biological molecule, [the petitioner] has provided instrumental guidance for a number of research teams working toward advancing treatment for a number of diseases.

As one example of this reliance on [the petitioner's] research, consider a joint team of researchers from Spain and France who used his characterization of [REDACTED] activity as the basis to propose novel methods for mitigating the symptoms of [REDACTED]. [REDACTED] patients are unable to get the nutrition they need from food due to a deficiency of [REDACTED]. . . . Without a firm understanding of how [REDACTED] action is compromised by acidic conditions it was impossible to sufficiently boost the activity of [REDACTED] to reduce the effects of [REDACTED].

As a direct result of [the petitioner's] account of [REDACTED] these researchers were able to identify precisely how acidic conditions compromise [REDACTED] activity. . . . As a direct result of [the petitioner's] findings, these researchers were able to successfully define the precise effect of [REDACTED] on the structure of [REDACTED] and thereby engineer [REDACTED] that was active at acidic [REDACTED] which improves our ability to manage and control [REDACTED].

Dr. [REDACTED] a biophysicist at [REDACTED] stated:

The major significance of [the petitioner's] articles in [redacted] and [redacted] is not merely my opinion. In fact, these articles have been repeatedly used by researchers to inform their own original studies. As such, they are responsible for advancing treatment on a wide variety of diseases, including those that cause nutrient deficiency such [as] [redacted]. At the molecular level, nutrients are broken down by a particular class of molecules known as lipases. Diseases such as [redacted] deprive the body of vital nutrients by compromising lipase action. Scientists have spent years investigating methods to restore lipase function, but these efforts have been hampered by the lack of a simple, reliable method to activate lipase molecules. While it was recognized that a [redacted] increase inside the intestines of [redacted] patients caused lipase inactivity, the precise effect on the lipase molecule was never characterized. [The petitioner's] discovery that lipase molecules close their active site lids in an acidic [redacted] guided a team of French experts to boost lipase activity under acidic conditions. As a direct result of [the petitioner's] findings, they were able to propose this original method for slowing the progression of [redacted].

Two of the new witnesses both emphasized potential applications of the petitioner's work to the treatment of [redacted] but provided no specific identifying details and the rough descriptions provided do not match. Dr. [redacted] referred to a "team of French experts," while Dr. [redacted] attributed the same study to "a joint team of researchers from Spain and France." Neither witness identified the individual researchers or the institution(s) where they worked, and neither witness provided the title of any article reporting the research described.

The petitioner has not submitted any article by researchers in both Spain and France. The petitioner had previously submitted excerpts an article by researchers in [redacted] and Paris, but those excerpts did not mention [redacted]. Instead, the article, [redacted]

indicated that [redacted]

and reported [redacted]

The article cited the petitioner's work as one of 13 articles reporting [redacted]

that provided [redacted]

Given the lack of corroborating evidence, and inconsistencies between the two general descriptions of the research involved, the petitioner has not shown that his work directly resulted in a new proposed method to slow the progression of [redacted]. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972).

The petitioner stated:

The RFE's assertion that "the record does not persuasively demonstrate that the beneficiary has been especially influential as a researcher in molecular biophysics" ignores the citations provided with the initial submission from research teams around the world. As evidenced by the articles included with the original submission, and by the expert testimonial letters enumerated above, these citations are not merely referencing his work, rather they demonstrate reliance on, and use of, his original technique.

The record does not support the petitioner's reading of the citations. The French team's article, discussed above, cited two of the petitioner's articles in a collective citation with 11 other articles dated between 1994 and 2005. As another example, the review article "[REDACTED]" which appeared in "[REDACTED]" contains three citations to the petitioner's work, as follows:



All of the citations are group citations, identifying the petitioner's work alongside other articles, many of them published before the petitioner's cited work. The article does not indicate that the petitioner's work is more significant than the other cited articles or show that the petitioner's work, unlike that of the other cited authors, formed a foundation for the citing authors' research. The petitioner did not submit evidence to establish that nine independent citations over the course of eight years constitute a significantly high citation rate in the petitioner's specialty.

The director denied the petition on December 28, 2011. The director acknowledged the intrinsic merit and national scope of the petitioner's occupation, but found "insufficient evidence to demonstrate that [the petitioner's] proposed employment would specifically benefit the national interest of the United States to a substantially greater degree than a similarly qualified U.S. worker."

The director acknowledged the petitioner's submission of "several testimonial letters," and stated: "The majority of the letters appear to have very similar language attesting to [the petitioner's] expertise and contributions as a researcher." The director stated that the petitioner had made contributions to his field, but had not established its "major significance." The director also stated that the petitioner had documented "a weak citation history." Concerning the petitioner's peer review work, the director stated: "the peer review and grant review [documents] were invitations and there is no evidence of [the petitioner's] actual participation." Observing that the editors of [redacted] had extended an invitation to the petitioner or "one of [his] colleagues," the director found no evidence that the invitation rested on the petitioner's "exceptional work or reputation." The director concluded that the petitioner had established competence, but not impact, in his field.

On appeal, the petitioner states: "The denial disregards substantial evidence in the record of [the petitioner's] impact on his field of molecular biophysics, including testimonial evidence of experts directly addressing the question of impact raised by the Texas Service Center's Request for Evidence." As a representative example, the petitioner quotes Dr. [redacted] letter, indicating that the petitioner's "articles have been repeatedly used by researchers to inform their own original studies" and "as such [they] are responsible for advancing treatment on a wide variety of diseases."

The Board of Immigration Appeals (BIA) has held 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 cases). The BIA also held, however: "We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available." *Id.* 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. 1136 (BIA 1998).

The opinions of experts in the field are not without weight and have received consideration above. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may, as above, evaluate the content of those letters as to whether they support the alien's eligibility. USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *See id.* at 795; *see also Matter of V-K-*, 24 I&N Dec. 500, 502 n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact"). *See also Matter of Soffici*, 22 I&N Dec. at 165.

The petitioner has relied on the witness letters not simply for expert opinions, but for claims of fact, such as the assertion that the petitioner's "articles have been repeatedly used by researchers." As discussed previously, Dr. [REDACTED] reference to an unidentified "team of French experts" lacks detail and corroboration; there is also a lack of consistency, with Dr. [REDACTED] attributing the same study to "a joint team of researchers from Spain and France." In the face of these inconsistencies and lack of detail, the absence of corroborating evidence diminishes the weight of the reference letters.

The petitioner does not address the director's finding regarding the "very similar language" in the witness letters. The similarly worded claims, in supposedly independent letters, raises questions about the true origin of those letters. *Cf. Mei Chai Ye v. U.S. Dept. of Justice*, 489 F.3d 517, 519 (2d Cir. 2007) (concluding that an immigration judge may reasonably infer that when an asylum applicant submits strikingly similar affidavits, the applicant is the common source).

The witness letters, taken alone, contain strong praise for the petitioner, and assertions that the petitioner has had a significant impact on the work of other researchers. The remainder of the record, however, does not support key claims in those letters, and the director's decision raised questions about those letters which the petitioner has not answered on appeal. *See Matter of Ho*, 19 I&N Dec. at 591. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Id.* at 591-92.

The petitioner states that the director's decision "improperly changes the standard under which this petition was to be judged." Specifically, the *NYSDOT* standard requires only "significant impact," whereas the director required evidence that the petitioner's work has "major significance." The director's use of the phrase "major significance" does not invalidate the remainder of the decision, in which the director indicated that the petitioner had not met the *NYSDOT* standard. The petitioner, on appeal, does not contest significant elements of the director's decision with respect to the petitioner's citation history and his peer review invitations. The petitioner has not overcome the finding that the record lacks evidence of "significant impact."

The petitioner has not established a past record of achievement at a level that would justify a waiver of the job offer requirement. The petitioner need not demonstrate notoriety on the scale of national acclaim, but the national interest waiver contemplates that his influence be national in scope. *NYSDOT* at 217, n.3. More specifically, the petitioner "must clearly present a significant benefit to the field of endeavor." *Id.* at 218. *See also id.* at 219, n.6 (the alien must have "a past history of demonstrable achievement with some degree of influence on the field as a whole.").

As is clear from a plain reading of the statute, it was not the intent of Congress that every person qualified to engage in a profession in the United States should be exempt from the requirement of a job offer based on national interest. Likewise, it does not appear to have been the intent of Congress to grant national interest waivers on the basis of the overall importance of a given profession, rather than on the merits of the individual alien. On the basis of the evidence submitted, the petitioner has not

(b)(6)

NON-PRECEDENT DECISION

Page 14

established that a waiver of the requirement of an approved labor certification will be in the national interest of the United States.

We will dismiss the appeal for the above stated reasons. 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.