



U.S. Citizenship
and Immigration
Services

(b)(6)

[Redacted]

DATE: **OCT 10 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:
[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,


for Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before us at the Administrative Appeals Office on appeal. We 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 radiologist. At the time he filed the petition, the petitioner was a fellow at [REDACTED] North Carolina. He later accepted an assistant professorship at the [REDACTED]. The petitioner's address on appeal is in [REDACTED] Florida. 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 legal brief.

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, Pub. 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(k)(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 intrinsic merit and national scope of medical research are not in dispute in this proceeding. The question at hand is whether the petitioner’s impact and influence on his field satisfy the third prong of the *NYS DOT* national interest test.

The petitioner filed the Form I-140, Immigrant Petition for Alien Worker, on March 26, 2013. An accompanying introductory statement cited decisions by the Board of Alien Labor Certifications

Appeals in an effort to establish that the petitioner cannot obtain a labor certification because of his unique skills and talents. The cited decisions include *Michael Graves Architect*, 89-INA-131, 1989-INA-00131 (Bd. Alien Lab. Cert. App. Feb. 21, 1990), in which the employer cited “artistic ability” as a job requirement, but refused “to either quantify its requirement in terms of length of training or experience or delete the requirement,” and *Everett/Charles Test Equip., Inc.*, 89-INA-40, 1989-INA-00040 (Bd. Alien Lab. Cert. App. Oct. 30, 1989), in which “[t]he position in issue is said to require responsibilities which differ from those of most general industrial engineering positions,” and “the exacting specificity of the requirements match the alien’s qualifications exactly.” In the present case, the petitioner has not identified any specific prospective employer or position, and therefore cannot show that his situation is comparable to those in the cited cases.

The introductory statement included the following claims:

[The petitioner] is an exceptionally talented doctor with expertise in [the] field of radiology. He has made groundbreaking research and clinical accomplishments in the field, which have directly resulted in tremendous improvements to the state of knowledge of the medical/scientific community in the U.S. and abroad. . . .

He has blazed a trail in Radiology research, with particular expertise in diagnostic imaging techniques (as noted in some detail in the attachments). He is currently and intensely involved in continued investigative/research trials of utmost importance, that once fully explored and developed, will greatly improve the medical community’s understanding of the most devastating diseases of our time. . . .

Among [the petitioner’s] numerous accomplishments that place him as one of the top in his field are his extraordinary original medical research breakthroughs of major significance that have blazed a trail in medical research and clinical practice. As noted above, he is a pioneer in the field which [*sic*] promises to revolutionize medical practice and methods throughout the world.

The introductory statement listed the petitioner’s claimed achievements, consisting of several conference presentations, four of which received awards or certificates of merit; membership in two associations; participation in peer review; authorship of a published materials consisting of a research article, a case report, a published abstract, a letter to the editor, and portions of a “teaching atlas”; and completion of “four (4) radiology fellowships at prestigious institutions,” with a fifth fellowship at [REDACTED] ongoing at the time of filing.

The petitioner did not establish that the above achievements mark him as “one of the top in his field.” The petitioner’s only documented peer review work was for the [REDACTED] the December [REDACTED] issue of which stated: “We currently have over 1,800 reviewers.” The petitioner did not submit citation information that could shed light on the impact of his published efforts.

The statement claimed that the [REDACTED] both “demand outstanding achievements of their members,” but the statement also emphasized the large membership sizes of the organizations (“over 5,000” for the [REDACTED] and “over 51,000” for the [REDACTED]. The petitioner did not identify the membership requirements of the [REDACTED] and the only identified requirement for [REDACTED] membership is a medical degree. Nevertheless, the introductory statement concluded: “Since [the petitioner] is a member of this organization, it serves [to demonstrate] that he is an outstanding physician in the field of radiology.”

In an accompanying personal statement, the petitioner described his past experience:

My research at [REDACTED] was concentrated on the evaluation of metastatic (spread) disease in the lymph nodes during early stage cancer. . . . I worked with [a] Magnetic Resonance Imaging (MRI) contrast agent called “ferrumoxtran¹ 10” which is still undergoing testing for FDA [Food and Drug Administration] approval purposes. . . .

Our team at [REDACTED] included Dr. [REDACTED] and Dr. [REDACTED] the radiologists that developed the contrast agent and protocols for imaging patients who had been given Ferrumoxtran. We conducted the research trials on patients with a variety of cancers to determine if the agent was effective in detecting [a] small amount of metastatic disease. I presented my research at the [REDACTED] conference in Chicago, IL. . . .

At [REDACTED] 2006, the research was highly appraised and received three distinguished awards. . . .

In 2007, my colleagues and I presented seven (7) oral presentations and educational exhibits at the annual [REDACTED] conference. . . .

By training at [REDACTED], I joined the top radiologists in the imaging field related to cancer. . . .

[Following a presentation at [REDACTED], my co-authored paper . . . was published in [REDACTED]

The petitioner then stated that his fellowships in musculoskeletal imaging and body imaging at the [REDACTED] led to educational exhibits and poster presentations at [REDACTED] and [REDACTED] conferences in [REDACTED]. He stated that “an educational exhibit at [REDACTED] . . . was selected for a [REDACTED] award for its originality and rarity in the literature.” He asserted that a presentation at [REDACTED] “inflamed interest in this rare type of cancer [pancreatic neuroendocrine tumors] thus stimulating

¹ The petitioner consistently spelled the word “ferrumoxtran,” but the correct spelling is “ferumoxtran.”

research in an obscure area that would otherwise remain obscure,” and that an educational exhibit at [REDACTED] “created a clearer understanding about the role of ultrasound in scrotal extratesticular pathologies,” raising awareness of a broader variety of treatment options.

Regarding his work at [REDACTED] the petitioner noted: “With advances in the CT [computed tomography] scan imaging technology, it is now possible to image the coronary arteries without the need of an invasive procedure like cardiac catheterization.” The petitioner stated that, done improperly, the technique can result in unnecessary overexposure to radiation, so “[i]t is important to have experts in the field of cardiovascular imaging who can use their knowledge to reduce the inadvertent radiation doses.” The petitioner also stated that a new technique, trans-aortic valve implantation, “require[s] special imaging, which is only performed at [REDACTED]”

The petitioner submitted five third-party letters in support of the petition. Dr. [REDACTED] is an associate professor at [REDACTED] and director of Abdominal Magnetic Resonance Imaging (MRI) at [REDACTED]. Dr. [REDACTED] who “supervised [the petitioner’s] early hospital research work,” stated:

[The petitioner] is an outstanding clinician and an extraordinary radiologist trained in multiple subspecialties of radiology. . . . [The petitioner] has attained [a] very high position in the field of radiology by being trained in the areas that are most needed for American patients today. . . . [The petitioner] is [a] perfect combination of [a] very well trained radiologist and an outstanding researcher. . . .

[The petitioner] and I have been involved in several research projects together over the past number of years. He has presented more than 19 abstracts at national and international conferences, garnering wide recognition and earning notable distinctions. He has also published at least three scholarly articles in highly ranked, peer-reviewed journals.

In addition, [the petitioner] played a critical role in the publication of “Teaching atlas of abdominal imaging” . . . which is a well-known book in the radiologist community. [The petitioner] contributed and authored several of the chapters in the book. . . .

[The petitioner] has been intimately involved in a project, which evaluated the radiation delivery to lymphatics for breast cancer using lymphotropic nanoparticle-enhanced MRI (LN-MRI). I was co-researcher on the research study and can attest to the key role [the petitioner] managed in his participation. . . .

[The petitioner] and I also worked together in several clinical trials that involved use of ferumoxtran-10 for detection of lymph nodal metastases in patients with various cancers. Specifically, we have worked on developing optimal protocols for imaging in patients with various cancers who received ferumoxtran-10.

The remaining witnesses all worked with the petitioner at [REDACTED]. Dr. [REDACTED] associate professor and vice chair of Clinical Operations in the Department of Radiology, stated the petitioner “played a significant role in resident teaching and was an invaluable resource for our department . . . because of his knowledge, training experience and research activities.” Dr. [REDACTED] asserted that the petitioner “is frequently consulted on the use of [the] new cardiovascular imaging methods” at [REDACTED].

Professor [REDACTED] director of the [REDACTED] stated that the petitioner “has provided momentous insight into the developments of radiation delivery to patients with breast cancer,” and “has distinguished himself by demonstrating extraordinary clinical and diagnostic abilities.”

Dr. [REDACTED] associate professor at [REDACTED] stated: “During his time at the [REDACTED] [the petitioner] conducted groundbreaking and novel research in the field.” Dr. [REDACTED] asserted that the petitioner’s study of pancreatic neuroendocrine tumors had “a large impact on the radiologist community worldwide,” but did not elaborate except to state that the community “is otherwise unaware of these rare neoplasms.” Dr. [REDACTED] asserted: “In [the] USA, usually radiologists do a single fellowship after their residency and start practicing,” whereas the petitioner “is fellowship trained in multiple subspecialties,” leading to “unique” expertise.

Professor [REDACTED] interim head of [REDACTED] Department of Radiology, called the petitioner “an established expert in the field” and claimed: “In recognition of his expertise in the field, the editors of the textbook *Teaching Atlas of Abdominal Imagine* requested that [the petitioner] contribute to the writing and research underlying the book.” The record shows that Dr. [REDACTED] who worked closely with the petitioner at [REDACTED], was one of the two credited editors of that volume.

Prof. [REDACTED] stated that one of the petitioner’s articles “has directly influenced the way radiation oncology is practiced today”:

Before this article was published, radiation oncologists would radiate a wider area of the breast for treatment of hidden metastases in the lymph nodes. [The petitioner] studied distribution of lymph nodes in several hundreds of the patients creating a map for guiding the radiation therapy. This resulted in significant[ly] less radiation to the areas that were normal . . . [and therefore] chances of complications resulting from [ir]radiating normal tissue significantly decreased in several patients. . . . With his profound background and ever growing international prestige, [the petitioner] is a well-recognized radiologist in the field.

All of the writers quoted above participated in the petitioner’s training at [REDACTED]. Their assertions that the petitioner has earned a reputation outside those institutions, and influenced his field as a whole, lack evidentiary support. 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 director issued a request for evidence (RFE) on July 20, 2013. The director quoted the submitted letters, and found “the evidence presents no indication that this work has so far changed clinical medicine on a wide scale or widely changed the work of other researchers in this field.” The director instructed the petitioner to “submit evidence of the full extent to which the petitioner’s work has changed clinical medicine, or changed the work of other researchers in his field,” as well as “evidence of numbers of independent citations received by the petitioner’s published work.”

In response, the petitioner submitted a statement claiming that he “far exceeds the work of his peers through the number of articles he has published and the number of presentations he has given.” The petitioner had previously claimed three articles and 19 conference presentations. In comparison, Dr. [REDACTED] claimed “over 100 published articles . . . [and] 17 books.” Dr. [REDACTED] claimed “35 book chapters,” while Dr. [REDACTED] claimed “95 scholarly articles and abstracts.” Prof. [REDACTED] claimed to “have published over 220 articles.” The petitioner did not support the claim that the quantity of his published output “far exceeds the work of his peers.”

The petitioner submitted a printout from the [REDACTED] search engine, indicating that one of the petitioner’s articles from [REDACTED] had earned two citations, and another from [REDACTED] had accumulated three citations. The director had instructed the petitioner to identify the authors of the citing articles, in order to distinguish between self-citations and independent citations, but the petitioner did not provide this information even though [REDACTED] provided links for that information.

The petitioner’s RFE response noted his “new appointment as Assistant Professor of Medicine at the [REDACTED]. This appointment demonstrates the petitioner’s continued intention to work in the field of radiology, but it cannot retroactively demonstrate that he was already eligible at the time of filing. An applicant or petitioner must establish that he or she is eligible for the requested benefit at the time of filing the benefit request. 8 C.F.R. § 103.2(b)(1). USCIS cannot properly approve the petition at a future date after the petitioner or beneficiary becomes eligible under a new set of facts. *See Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). The petitioner’s use of a Florida address on appeal suggests that he no longer works at the [REDACTED].

The petitioner resubmitted copies of previously submitted exhibits, as well as evidence showing that his “Certificate of Merit” from [REDACTED] was one of over a hundred such certificates awarded at the conference.

The response statement refers to “testimonial letters from independent experts.” Of the six new letters submitted in response to the RFE, five are from faculty members at universities where the petitioner had trained and/or worked. The sixth writer is in [REDACTED] Florida, the petitioner’s most recent documented city of residence.

Dr. [REDACTED], associate professor at [REDACTED] and director of computed tomography at [REDACTED], stated that the petitioner “is truly an internationally respected researcher of the highest level,” owing to his “revolutionary research work,” the impact of which “is truly beyond compare.”

Dr. [REDACTED] clinical associate professor at [REDACTED], stated:

[The petitioner] has made several contributions to the development of a better understanding about the spread of various cancers in lymph nodes. . . . [His] research assists radiologists in the field with better techniques for diagnosing the nodal metastases.

. . . With early detection of metastatic disease, [the petitioner] and his co-researchers created maps showing the distribution of nodal metastases. By using these maps, the radiotherapy can be directed to the malignant metastatic nodes while saving the normal tissues. . . . Because several institutions adapted this new method of radiation delivery based on the nodal maps, [the petitioner] and the team of medical professionals at the [REDACTED] published the research for patients with breast cancer.

The implications of this study . . . are enormous. . . . Ultimately, this outcome results in fewer side effects for patients. . . .

The impact of nodal mapping and [the petitioner’s] paper . . . cannot be overstated.

Professor [REDACTED] stated that the petitioner “ranks among the most skilled and trained in the field of medicine,” and that he has “influenced the work of others” “[b]y presenting his research” at an [REDACTED] conference.

Dr. [REDACTED] assistant clinical professor at the [REDACTED] described some of the petitioner’s past research projects and concluded: “The impact of [the petitioner’s] clinical work and research undertakings is truly without equal. . . . By way of his contributions, he has influenced the field and the work of other radiologists to a substantial degree.”

Professor [REDACTED] signed a letter stating that the petitioner “has uncovered remarkable findings that have since been readily applied in medical practice” but did not elaborate with respect to the petitioner’s past work. Instead, Prof. [REDACTED] focused on the petitioner’s new projects at [REDACTED]. Because this work took place after the petition’s filing date, it cannot retroactively show that the petitioner qualified for the waiver at the time he filed the petition. *See Matter of Katigbak*, 14 I&N Dec. 49.

Prof. [REDACTED] letter includes passages identical to passages in the introductory statement submitted with the petition.

Dr. [REDACTED] assistant professor at the [REDACTED] [REDACTED] stated: "I wish to make it known . . . that I have never personally worked with [the petitioner]. . . . It is only through his extensive training and accomplishments in the field of radiology, that I offer my recommendation for the approval of his EB-2 petition." Most of Dr. [REDACTED] letter is contains the same language as that of Dr. [REDACTED] earlier letter. When discussing the petitioner's work at [REDACTED] (where Dr. [REDACTED] never worked), Dr. [REDACTED] repeated Dr. [REDACTED] first-person reference to "our residents and colleagues." This use of copied and inapplicable language contradicts the claim that Dr. [REDACTED] based his letter solely on the petitioner's reputation. Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). Therefore, the issues regarding Dr. [REDACTED] letters raise doubts about the origin of all of the letters submitted in support of the petition. Compounding these issues is the disparity between the claims in the letters and the documentary evidence in the record.

The director denied the petition on October 26, 2013. The director quoted several of the submitted letters and discussed the petitioner's other exhibits, such as certificates and published articles. The director noted the low number of documented citations of the petitioner's published work, and found that the letters contained unsupported claims regarding the extent of the petitioner's impact and influence on the field of radiology.

On appeal, the petitioner submits an appellate brief stating that he "meets and exceeds [the] guiding principles" for the national interest waiver, and that the director "made a discretionary opinion without paying adherence to the details of [the petitioner's] case and his extraordinary and exceptional credentials. Without question, [the petitioner] is of an outstanding nature, and it would be detrimental to medical students, to his research work, and to the United States" to "depriv[e] our nation of his person."

The appellate brief repeats the discussion of past decisions by the Board of Alien Labor Certifications Appeals, and contends: "There are few, if any, U.S. Citizens with [the petitioner's] level of clinical training and specialization in the various fields of radiology [the petitioner] has concentrated in." The brief quotes several of the letters submitted with the petition and in response to the RFE.

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. *See id.* at 795. 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. 165.

As the director observed in the denial notice, the documentation in the record does not support the claims in the submitted letters. Furthermore, when a letter lacks originality and repeats nearly

verbatim language of other letters, as discussed above, its evidentiary weight diminishes. Additionally, when a letter repeats language from the earlier introductory brief, it is clear that the source is the brief, not the writer's independent assessment; repetition is not corroboration. Likewise, when a writer claims to have relied only on reference to the petitioner's *curriculum vitae*, but then quotes an earlier letter to the point of mistakenly referring to himself as a [REDACTED] faculty member, credibility questions arise. Many of the letters include the claim that the petitioner has earned an international reputation as a researcher, but the remaining evidence in the record does not support this assertion.

The appellate brief addresses the citation history of the petitioner's publications with the claim that the journals in question are so prestigious that to be published in them at all is a significant achievement, because "[c]ompetition is very high" and "[o]nly the most distinguished manuscripts are accepted for publishing." The implication is that relatively few researchers in the petitioner's specialty manage to publish their work. The petitioner has not supported this claim.

The petitioner previously submitted a letter from [REDACTED] director of publications for the [REDACTED] indicating that the [REDACTED] accepts "fewer than 20% of submissions" for publication, but he has not shown that this information extrapolates to other journals. The petitioner has served as one of "over 1,800 reviewers" for the [REDACTED] but none of his own work has appeared there. The petitioner has not shown that his manuscripts have a higher acceptance rate at reputable journals than those of his peers, or that the citation rate of his articles is high in comparison to the average in his specialty.

The appellate brief indicates that the petitioner "has received multiple awards and recognition in the academic field of Radiology." The brief then lists four awards and certificates that the petitioner received at [REDACTED] conferences in [REDACTED]. The petitioner has submitted no evidence regarding the significance of these materials. Instead, as with the citations, the claim on appeal is that their existence alone should suffice to set the petitioner apart from his peers. Recognition for achievements and contributions can be part of a claim of exceptional ability. See 8 C.F.R. § 204.5(k)(3)(ii)(F). Exceptional ability, in turn, is not sufficient grounds for the national interest waiver. Section 203(b)(2)(A) specifies that aliens of exceptional ability are generally subject to the job offer requirement. Therefore, evidence of recognition is not *prima facie* evidence of eligibility for the national interest waiver. The petitioner has not established that these awards have significance throughout the field as a whole, not just within the confines of a particular conference.

The brief contains this assertion: "Generally, it is accepted that . . . being invited to present at a conference of prestige is evidence in itself of one's notability." It cannot suffice to attribute this claim to general knowledge or understanding; the petitioner must support his claims. See *Matter of Soffici*, 22 I&N Dec. at 165. The brief asserts that the petitioner "has made eighteen (18) conference appearances nationwide. This exemplifies [the petitioner's] wide stretch of influence and far surpasses the accomplishments of his peers." The petitioner provides no baseline for comparison to "his peers"; he implies, without evidence, that he has appeared at more, and more prestigious, conferences than others in the field.

Regarding the petitioner's peer review work, the appellate brief states: "The fact that [the petitioner] has been asked to serve as a reviewer five (5) times . . . is a testament to his name-recognition as an exceptional radiologist." All of the petitioner's documented peer review work has been for one journal, the [REDACTED]. The record contains no evidence that the petitioner's "name-recognition as an exceptional radiologist" led the [REDACTED] to solicit the petitioner's services as a peer reviewer. The record shows that the journal has a large and increasing number of peer reviewers, growing from "over 1,600" in 2008 to "over 1,800" the following year. With respect to the number of times the petitioner has served as a reviewer, [REDACTED] stated: "Reviewers are expected to perform at least two reviews per year and are promptly removed from the reviewer pool for nonperformance." Given this policy, and given that the petitioner "has served as a reviewer for [REDACTED] since 2007," the petitioner's multiple reviews are the expected result rather than evidence of special standing in the field.

The record establishes that the petitioner has completed several fellowships, thereby obtaining detailed knowledge of various subspecialties within radiology. The record, however, does not contain independent evidence to corroborate the claim that the petitioner's work has affected the way other radiologists practice medicine.

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. *NYS DOT*, 22 I&N Dec. 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 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 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.