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

(b)(6)

U.S. Citizenship and Immigration Services

DATE: FEB 27 2015 Office: TEXAS SERVICE CENTER FILE:

IN RE: Petitioner:
Beneficiary:

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:

INSTRUCTIONS:

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

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

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

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

In her initial filing, the petitioner indicated that she sought classification as an alien of extraordinary ability in athletics as a table tennis player and coach, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A). In response to the director's request for evidence (RFE) and on appeal, however, the petitioner asserted that she qualified for the exclusive classification as a table tennis coach and stated her intent to work as a table tennis coach in the United States. The Act makes visas available to petitioners 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 the petitioner's one-time achievement or evidence that the petitioner meets at least three of the ten regulatory criteria.

On appeal, the petitioner asserts that the director erred because she meets the criteria under the regulations at 8 C.F.R. § 204.5(h)(3)(i), (iii) and (v). In addition, on appeal, the petitioner asserts that she has established her eligibility through the presentation of comparable evidence under the regulation at 8 C.F.R. § 204.5(h)(4). For the reasons discussed below, we agree with the director that the petitioner has not established her 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), evidence that she 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), or comparable evidence that establishes her eligibility under 8 C.F.R. § 204.5(h)(4). As such, the petitioner has not demonstrated that she is one of the small percentage who are at the very top in the field of endeavor, and that she 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. 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 her sustained acclaim and the recognition of her 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 she 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), or comparable evidence that establishes her eligibility under the regulation at 8 C.F.R. § 204.5(h)(4).

The submission of evidence relating to a one-time achievement, at least three criteria or comparable evidence, 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

In this case, in her initial filing, the petitioner asserted in the cover letter that "she is [an] internationally recognized table tennis player and coach." In part 5 of her petition, the petitioner stated that her occupation is "Athletes & Related Workers," and provided no information on her proposed employment in the United States. In response to the director's RFE, the petitioner asserted that she is "an alien of extraordinary ability as a coach in the field of Table Tennis." She further provided evidence of her intent to work as a table tennis coach in the United States, and submitted an employment offer for a table tennis coach position with the [redacted] On appeal, the petitioner asserts that she qualifies for the exclusive classification "as a

coach for table tennis." The record lacks evidence that the petitioner intends to be a table tennis player in the United States. Rather, the evidence shows that the petitioner intends to be a table tennis coach in the United States. As the petitioner has not submitted evidence showing that she seeks to enter the United States as a table tennis player, at issue in this case is her eligibility as a table tennis coach. Accordingly, this decision will focus on the petitioner's claim that she is eligible for the exclusive classification as a table tennis coach.

While a table tennis player and coach certainly share knowledge of table tennis, the two rely on very different sets of basic skills. Thus, competitive athletics and coaching are not the same area of expertise. *See Lee v. Ziglar*, 237 F. Supp. 2d 914, 918 (N.D. Ill. 2002). Nevertheless, there does exist a nexus between playing and coaching a given sport. To assume that every extraordinary athlete's area of expertise includes coaching, however, would be too speculative. To resolve this issue, the following balance is appropriate. In a case where the beneficiary has clearly achieved recent national or international acclaim as an athlete and has sustained that acclaim in the field of coaching at a national level, USCIS can, in the context of the final merits determination, consider the totality of the evidence as establishing an overall pattern of sustained acclaim and extraordinary ability consistent with a conclusion that coaching is within the petitioner's area of expertise. Specifically, in such a case the level at which the petitioner acts as coach is a consideration. A coach who has an established successful history of coaching athletes who compete regularly at the national level has a credible claim; a coach of novices does not. In this matter, however, as the petitioner has not submitted qualifying evidence as either a coach or an athlete under at least three criteria, the proper conclusion is that the applicant has not satisfied the regulatory requirement of three types of evidence.

A. Evidentiary Criteria[1]

Under the regulation at 8 C.F.R. § 204.5(h)(3), the petitioner, as initial evidence, may present evidence of a one-time achievement that is a major, internationally recognized award. In this case, the petitioner has not asserted or shown through the evidence that she is the recipient of a major, internationally recognized award at a level similar to that of the Nobel Prize or Olympic medal. Indeed, the director concluded that the evidence did not establish the beneficiary's receipt of a major, internationally recognized award. On appeal, the petitioner has not specifically challenged the director's conclusion. As such, as initial evidence, the petitioner must present at least three of the ten types of evidence under the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x).

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

The petitioner has not shown that she meets this criterion, because she has not shown that her competitive history as a tennis player is indicative of her extraordinary ability as a table tennis

[1] We have reviewed all of the evidence the petitioner has submitted and will address those criteria the petitioner claims she meets or for which the petitioner has submitted relevant and probative evidence.

coach. As discussed, competitive athletics and coaching are not within the same area of expertise. *See Lee*, 237 F. Supp. 2d at 918. As the petitioner is seeking the exclusive classification as a table tennis coach, she must present evidence of her receipt of nationally or internationally recognized prizes or awards for excellence as a coach.

In addition, the petitioner has not shown that the awards and prizes that she has received as a table tennis player are nationally or internationally recognized. The record includes the petitioner's resume that lists the petitioner's competitive history in 2007 and 2008. The petitioner has also submitted award certificates showing that she competed and received first, second or third placement in competitions held in [redacted] Texas. For example, the petitioner has submitted a certificate showing that she finished in third place in the [redacted] held in [redacted] Texas. The petitioner has also submitted a [redacted] article in [redacted] about the competition. The article states that the competition had participating athletes from [redacted] The article further states that the event organizer "reiterated his fervent desire to continue building the [redacted] tournament into a truly world-class event." The petitioner has not shown that prizes or awards from this event are nationally or internationally recognized. Although [redacted] reported on the competition, the petitioner has not shown that the magazine only reports competitions that issue nationally or internationally recognized prizes or awards.

The petitioner has provided no evidence relating to the remaining competitions in which she participated, such as how many athletes participated, the participating athletes' skill level, or how many athletes received awards in the competitions. The petitioner has also provided no evidence showing the reputation of the prizes or awards from these competitions or evidence showing that individuals not associated with the organizing entities or the participating athletes consider the prizes or awards as nationally or internationally recognized prizes or awards.

Moreover, the petitioner has not shown that she has received qualifying awards or prizes as a table tennis coach. The petitioner's resume provides a list entitled "[redacted]" showing the accomplishments of athletes, all in the age categories of under 21, whom the petitioner has trained. The petitioner has not shown that prizes or awards that her students received constitute her receipt of the prizes or awards, as required under the plain language of the criterion. In addition, the petitioner has provided insufficient evidence showing that prizes or awards from the competitions in which her students have achieved success are nationally or internationally recognized. Notably, the competitions have age restrictions. The petitioner has not shown that prizes and awards from these competitions, which are not open to athletes of all ages, are nationally or internationally recognized in the sport of table tennis. The petitioner has not submitted any reporting of the competitions or the competition results in nationally or internationally circulated major trade publications or major media. Although the record includes evidence of media coverage of some of the competitions, the coverage is local or regional in nature.

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

> *Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.* 8 C.F.R. § 204.5(h)(3)(iii).

In support of her assertion that she meets this criterion, the petitioner has submitted evidence relating to a March interview, an article published in the and two articles published in the The petitioner has not shown that she meets this criterion.

First, it is well established that the petitioner must demonstrate eligibility for the visa petition at the time of filing. *See* 8 C.F.R. § 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). In other words, the petitioner cannot secure a priority date based on the anticipation of future published material in major media. *See Matter of Wing's Tea House*, 16 I&N Dec. 158, 160 (Reg'l Comm'r 1977); *Matter of Izummi*, 22 I&N Dec. 169, 175-76 (Assoc. Comm'r 1998) (adopting *Matter of Bardouille*, 18 I&N Dec. 114 (BIA 1981) for the proposition that USCIS cannot "consider facts that come into being only subsequent to the filing of a petition.") As the petitioner filed her petition on November 29, 2013, she may not rely on a March interview to establish that she meets this criterion. In addition, the evidence submitted, which includes a number of photographs, does not establish that the petitioner was interviewed by The petitioner has submitted no documentary proof from verifying the interview or providing information on the content of the interview. Moreover, the petitioner has not shown that the interview constitutes published material in major media. The petitioner has provided a photocopy of business card that bears a Some of the photographs in the record also show a camera bearing the ' Although might constitute major media, the petitioner has not shown that ' also constitutes major media. The petitioner has presented no evidence relating to

Second, the article is not about the petitioner, relating to her work as a table tennis coach. The article is entitled ' and it is published in the Schools Section of The article is about and makes no mention of the petitioner. The petitioner appears in a photograph with Ms. and is mentioned in the photograph's caption as one of Ms. two coaches. The petitioner has not shown that her photograph and the photograph caption constitute published material about her, relating to her work as a table tennis coach, as required under the plain language of the criterion. In addition, the petitioner has not presented any evidence relating to such as its circulation, distribution or reach, to establish that it constitutes a professional or major trade publication or major media.

Third, the petitioner has not shown that the is a professional or a major trade publication or major media. The petitioner has not provided information relating to the publication, such as its focus or the areas of its reporting, which might show that it is a professional or trade publication. The petitioner has also not provided information relating to the publication's circulation, distribution or reach, which might show that it is major media. In addition, the petitioner has not shown that the articles in the are about the petitioner, relating to her work as a table tennis coach. Rather, the articles are about young athletes she has trained. The articles list the petitioner as the athletes' coach. This limited information about the petitioner is insufficient to show that the articles are about the petitioner, relating to her work as a coach.

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

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

To show that she meets this criterion, the petitioner must show her contributions are original, such that she is the first person or one of the first people to have made the contributions, and that her contributions are of major significant in the sport of table tennis. Regardless of the field, the plain language of the phrase "contributions of major significance in the field" requires evidence of an impact beyond one's employer and clients or customers. *See Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding a finding that a ballroom dancer had not met this criterion because she did not demonstrate her impact in the field as a whole). The evidence in the record, including a number of reference letters, does not show the petitioner meets this criterion. Rather, the evidence shows that the petitioner was a competitive table tennis player, and has now been helping other table tennis players advance in the sport. The petitioner has not shown that her contributions are either original or of major significance in the sport of table tennis.

According to Head Coach of the the petitioner "is a great coach, knows how to stick to the basic principal and inspires players to continue improving their table tennis skills." Ms. further states that who won first and second place, respectively, at the "have benefitted a lot from [the petitioner]." According to , President of the the petitioner coaches the young players. Mr. states that the petitioner "is a talent[ed] coach, [and] knows how to assess player's technical and mental condition during the games." Neither Ms. nor Mr. has provided sufficient details relating to the petitioner's work as a coach. They also do not explain what the petitioner has done as a coach that is original or explain what the petitioner has done that constitutes contributions of major significance in the sport. The petitioner might have had an impact on some young athletes. The plain language of the criterion, however, requires the petitioner to show original contributions of major significance in the field as a whole. Neither Ms. letter nor Mr. letter demonstrates that the petitioner has met this criterion. Regardless of the field, the plain language of the phrase "contributions of major significance in the

field" requires evidence of an impact beyond one's employer and clients or customers. *See Visinscaia*, 4 F.Supp.3d at 134-35.

Similarly, although and a member of the a member of the indicate in their letters that the petitioner has had an impact on their training, the evidence does not demonstrate that the petitioner has made original contributions of major significance in the sport of table tennis as a whole. According to Mr. October 15, 2012 letter, the petitioner helped him "further enhance [his] table tennis skills to better position [him] in the Mr. states that the petitioner volunteered to help him upon his request and that he has "benefitted from [the petitioner's] expert advice and excellent skills." He does not assert, however, that the petitioner was one of his "various coaches for different skills." In his June 22, 2014 letter, Mr. states that the petitioner helped him win his Once again, however, he does not suggest that the petitioner was his coach, stating instead that he hopes "she can become" his coach. According to Ms. in the the petitioner "gave [her] some great advice that helped [her] win several key competitions. It helped [her] understand and realize what improvement [she] need[ed] for future development. [The petitioner] is one of the best coaches [she] ever had before. [The petitioner's] critical assessment and advice have enabled young players to continue to achieve national rankings in their prospective age divisions." As with Mr. Ms. does not assert that she competed under the petitioner's tutelage as a coach.

The letters from Mr. and Ms. show that the petitioner provided advice that has impacted their skills, but they do not show that the petitioner has had an impact in the sport as a whole. In Mr. June 22, 2014 letter, he states that the petitioner's training methods include "massive physical training," "creat[ing] a training environment . . . very close to the competition one," a "special way to help athlete[s] get rid of state of tension" and "quickly adjust[ing] to change [from] passive to active." The petitioner has not shown that these training methods are her original training methods, such that she has developed them or she is the first person or one of the first people to have used them. In addition, the petitioner has not submitted sufficient evidence showing the level of impact she has had on Mr. As stated above, Mr. does not specifically assert that the petitioner was his coach and, notably, Mr. profile lists seven coaches. The petitioner is not one of them. Also, none of the articles in the record about Mr. indicates that the petitioner has been Mr. coach or has had a significant impact on Mr. s skills.

The petitioner has also submitted reference letters from parents of young athletes whom she has trained. According to his daughter has been taking lessons from the petitioner for the past two years, during which time she won awards at the and other events. Mr. states that the petitioner has "given more confidence in preparing for big tournaments like [the] and helped her stay focused on her goals." According to her daughter "performance improved rapidly and she [became a] member of [the] " As noted, at issue is not the petitioner's impact on a particular individual athlete, the plain language of the criterion requires a showing of original contributions of major significance to the

sport of table tennis as a whole. The letters relating to the impact that the petitioner has had on athletes she has trained do not demonstrate that the petitioner meets this criterion. While an athlete's receipt of an medal while under the petitioner's primary tutelage may constitute comparable evidence under this criterion, the petitioner has not submitted such evidence.

The evidence in the record includes other reference letters from current and former table tennis players, praising the petitioner's skills as a player and coach. For example, according to Executive Vice President of and a former table tennis player and coach, the petitioner has been coaching in Italy and Japan since 2005 and she has "made contributions to promote table tennis and to improve the skill level of table tennis players." Mr. further states that the petitioner "will continue her efforts to make contributions to help the development of table tennis and to help improve the skill level of table tennis players in the United States." According to a table tennis player, the petitioner "possesses [the] complete toolset of an extraordinary athlete." Ms. states that she hopes the petitioner "can introduce the advanced table tennis technique and her experience to make contributions to the development of table tennis in the United States." According to the petitioner's former teammate, the petitioner "was a coach in several countries. Her students and team members have many outstanding results. [The petitioner] is a very experienced table tennis coach." General praise and approval of the petitioner's ability as a table tennis player or coach, and predictions of the petitioner's potential impact in the sport, however, do not establish that the petitioner has made original contributions of major significance in the sport.

Some of the reference letters provide conclusory statements about the petitioner's talent and skills as a table tennis coach. They do not, however, provide specific information on any contributions that the petitioner has made in the sport as a whole. For example, according to a member of the Board of Directors of the petitioner "has established herself as an extraordinary ability alien in the field of Table Tennis . . . such that she has extraordinary ability in the field of athletics which have been demonstrated by sustained national and international acclaim and whose achievements have been recognized in her field of Table Tennis." Other than making conclusory statements about the petitioner's accomplishments and acclaim, Mr. does not provide any evidence or examples in support of his statements. Merely repeating the language of the statute or regulations does not satisfy the petitioner's burden of proof. *See Fedin Bros. Co., Ltd. v. Sava*, 724 F. Supp. 1103, 1108 (E.D.N.Y. 1989), *aff'd*, 905 F. 2d 41 (2d Cir. 1990); *Avyr Associates, Inc. v. Meissner*, No. 95 Civ. 10729, 1997 WL 188942 at *1, 5 (S.D.N.Y. Apr. 18, 1997). Similarly, USCIS need not accept primarily conclusory assertions. *See 1756, Inc. v. United States Att'y Gen.*, 745 F. Supp. 9, 17 (D.C. Dist. 1990).

The reference letters in the record, including those not specifically discussed above, contain assertions of acclaim without specifically identifying contributions and providing specific examples of how those contributions rise to a level consistent with major significance in the field. As noted, merely repeating the language of the statute or regulations does not satisfy the petitioner's burden of proof. *See Fedin Bros. Co., Ltd.*, 724 F. Supp. at 1108; *Avyr Associates, Inc.*, 1997 WL 188942 at *5. We need not accept primarily conclusory assertions. *See 1756, Inc.*, 745 F. Supp. at 17.

Vague, solicited letters from colleagues and clients that do not specifically identify contributions or provide specific examples of how those contributions influenced the sport are insufficient. *Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9th Cir. 2009), *aff'd in part*, 596 F.3d 1115 (9th Cir. 2010).[2] The opinions of experts in the field are not without weight and have been considered above. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, USCIS is ultimately responsible for making the final determination regarding a 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, as this decision has done above, 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"). 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 Matter of Caron Int'l*, 19 I&N Dec. at 795; *see also Matter of Soffici*, 22 I&N Dec. 158, 165 (Assoc. Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)); *see Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding our decision to give minimal weight to vague, solicited letters from colleagues or associates that do not provide details on contributions of major significance in the field).

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

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

The director concluded in his decision that the petitioner did not meet this criterion. On appeal, the petitioner has not contested the director's conclusion. As such, the petitioner has abandoned this issue, as she did not timely raise it on appeal. *Sepulveda*, 401 F.3d at 1228 n.2; *Hristov*, 2011 WL 4711885 at *9. Accordingly, the petitioner not has presented evidence that she has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. The petitioner has not met this criterion. *See* 8 C.F.R. § 204.5(h)(3)(viii).

> *If the above standards do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence to establish the beneficiary's eligibility.* 8 C.F.R. § 204.5(h)(4).

On appeal, the petitioner asserts that she has presented comparable evidence that establishes her eligibility for the exclusive classification. Specifically, she points to a reference letter from Mr.

[2] In 2010, the *Kazarian* court reiterated that our conclusion that "letters from physics professors attesting to [the petitioner's] contributions in the field" were insufficient was "consistent with the relevant regulatory language." 596 F.3d at 1122.

and employment offers from Mr. Mr. and the The letters and the employment offers do not constitute comparable evidence establishing the petitioner's eligibility.

First, as discussed, Mr. makes conclusory statements about the petitioner's extraordinary ability and acclaim, but does not provided any specific information or point to any specific evidence in support of the conclusory statements. Merely repeating the language of the statute or regulations does not satisfy the petitioner's burden of proof. *See Fedin Bros. Co., Ltd.*, 724 F. Supp. at 1108; *Avyr Associates, Inc.*, 1997 WL 188942 at *5. We need not accept primarily conclusory assertions as evidence of the petitioner's eligibility. *See 1756, Inc.*, 745 F. Supp. at 17.

Second, offers of employment from Mr. Mr. and the do not establish the petitioner's extraordinary ability as a table tennis coach. Although Mr. a member of the states that he has been working with the petitioner, the evidence shows that the petitioner has not been his coach. At the time the petitioner filed the petition, she submitted Mr. profile indicating that he had seven coaches, but the petitioner was not listed as one of them. Moreover, the assertion in his letter that he "hope[s] [the petitioner] can become" his coach is not an actual job offer. Finally, inherent to the profession of coaching is to receive employment offers from athletes and sports clubs. The petitioner's ability to secure employment opportunities is a separate evidentiary requirement from the criteria that can show extraordinary ability at 8 C.F.R. § 204.5(h)(3) and (4). *See* 8 C.F.R. § 204.5(h)(5)(requiring evidence of an intent to continue working in the area of expertise, including, as one example, letters from prospective employers). In short, a review of the evidence in the record in the aggregate does not establish that the petitioner is "one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(3); *see also* section 203(b)(1)(A) of the Act.

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 have 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.[3]

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

ORDER: The appeal is dismissed.

[3] 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).