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: JAN 0 6 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:

SELF-REPRESENTED

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 on June 5, 2014. The petitioner, who is also the beneficiary, appealed the decision with the Administrative Appeals Office (AAO) on June 27, 2014. The appeal will be dismissed.

The petitioner seeks classification as an "alien of extraordinary ability" as an anthropologist, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), which makes visas available to aliens who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation. The director determined that the petitioner had not satisfied the initial evidence requirements set forth at 8 C.F.R § 204.5(h)(3), which requires documentation of a one-time achievement or evidence that meets at least three of the ten regulatory criteria.

On appeal, the petitioner submits an appellate statement with no additional supporting documentation. 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), or evidence that satisfies at least three of the ten regulatory criteria set forth in the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x). As such, the petitioner has not demonstrated that 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 the alien's sustained acclaim and the recognition of the alien's achievements in the field through initial evidence of a one-time achievement (that is, a major, internationally recognized award). If the petitioner does not submit this evidence, then a petitioner must submit sufficient qualifying evidence that meets at least three of the ten categories of evidence listed at 8 C.F.R. § 204.5(h)(3)(i)-(x) to meet the basic eligibility requirements.

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

II. ANALYSIS

A. Translations

The petitioner has submitted a number of foreign language documents. The petitioner, however, has not submitted English translations that meet the regulatory requirements under 8 C.F.R. § 103.2(b)(3), which provides, "[a]ny document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate from the foreign language into English." The director specifically advised the petitioner of the requirement for certified translations on the first page of his request for evidence (RFE). The petitioner has not submitted a certificate from the translator(s) that meet the regulatory requirements. As such, we need not consider the foreign language documents because they do not have any evidentiary value. Even if we consider the foreign language documents and their uncertified English translations, the petitioner has not shown her eligibility for the visa petition for the following reasons.

B. Evidentiary Criteria[2]

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 her evidence that she is the recipient of a major, internationally recognized award at a level similar to that of the Nobel Prize. Indeed, the director concluded in his decision that the evidence did not establish the petitioner's receipt of a major, internationally recognized award. On appeal, the petitioner has not specifically challenged the director's conclusion as relating to this issue. 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) to meet the basic eligibility requirements.

As the director noted in his decision, the petitioner did not specifically indicate in her filings submitted to the director which of the ten criteria she claims to meet. On appeal, the petitioner responds that "one would think that the adjudicator of [USCIS] would be in a position to determine how the submitted documentation would evidence approval for the classification." Nevertheless, she also asserts for the first time that she meets the original contributions criterion under 8 C.F.R. § 204.5(h)(3)(v), the display of work criterion under 8 C.F.R. § 204.5(h)(3)(vii), and the leading or critical role criterion under 8 C.F.R. § 204.5(h)(3)(viii). In addition, the petitioner asserts that she meets the "publications" criterion, without specifying if she meets the published material criterion under 8 C.F.R. § 204.5(h)(3)(iii) or the authorship of scholarly articles criterion under 8 C.F.R. § 204.5(h)(3)(vi). As discussed below, the evidence in the record does not establish that the petitioner meets any of these criteria. While we will endeavor to provide more analysis than the director did, as discussed below, it is not readily apparent how most of the evidence the petitioner submitted relates to the regulatory criteria, especially in the field of anthropology.

At the outset, we reiterate that, according to the Form I-140 petition, the petitioner seeks eligibility as an anthropologist. Thus, it is in this field that the petitioner must demonstrate her qualifying accomplishments. According to the Department of Labor's Occupational Outlook Handbook (OOH), anthropologists and archeologists study the origin, development, and behavior of humans. They examine the cultures, languages, archeological remains, and physical characteristics of people in various parts of the world. *See* http://www.bls.gov/ooh/life-physical-and-socialscience/anthropologists-and-archeologists.htm, accessed December 23, 2014 and incorporated into the record of proceeding. A cover letter the petitioner submitted with the petition provides:

> Having earned her Master's degree in cultural Anthropology and Sociology of Non-Western Societies, she has focused her extraordinary skills on the creation and utilization of modern technology around today's society.

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

While the study of the interplay of technology and culture can plausibly fall under anthropology, the petitioner has not established that any employment involving the creation and utilization of technology is within the field of anthropology. It is in this context that we will review the evidence.

> *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).

The record does not include any evidence relating to this criterion. To meet this criterion, the petitioner must submit "published material . . . in professional or major trade publications or other major media," and must show that the "published material [is] about the alien . . . relating to the alien's work in the field for which classification is sought." 8 C.F.R. § 204.5(h)(3)(iii). The record does not include any material from a professional or major trade publication or other major media. In her appellate statement, the petitioner states that evidence of a webpage constitutes evidence that she meets the "publications" criterion. The record includes evidence relating to [redacted] website, http://[redacted]html, which the petitioner asserts is "an online resource center, devoted to teaching and learning about animals, caring for them in a humane way." The webpage includes an essay by the petitioner explaining her experience with animals.[3] The petitioner has not shown that the website constitutes a professional publication. The petitioner has also not submitted any evidence, such as evidence relating to the traffic or reach of the website, that shows the website constitutes a major trade publication or other major media. Moreover, the website, including the petitioner's essay, relates to animal rescue and animal care, not the field of anthropology, the field in which the petitioner claims expertise. The record contains a letter from Dr. [redacted] at the [redacted] proposing that she and the petitioner collaborate on a study of "the educational context of the farm/animal sanctuary and also on the ways in which refugees interact with animals to bridge their identities in their home countries and their receiving country." This letter, however, does not establish that [redacted] is an anthropology research center in addition to an animal rescue center.

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, anthropology. 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).

On appeal, the petitioner asserts that she meets this criterion because: (1) in 1994, she participated in a three-month fieldwork project in [redacted]; (2) from 1995 to 1996, she formatted a manual in

[3] The author of the essay is an individual with a similar name to the petitioner's name. While the petitioner did not submit evidence establishing that she is one and same as the individual who wrote the essay, we acknowledge that the record does contain a diploma bearing the similar name and the petitioner's date of birth.

social services for the (3) from 1996 to 1998, she "introduced new media into [the "; (4) from 1998 to 1999, she coordinated an art project that led "to an art publication"; (5) from 2001 to 2006, she worked for library as a "Reserves/Digital Learning Resources Specialist"; and (6) she founded the website for

None of the documents in the record establish that the petitioner meets this criterion. First, the petitioner's resume, without corroborating evidence, amounts to the petitioner's unsubstantiated statements, which are insufficient to establish that the petitioner meets this criterion. Going on record without supporting documentary evidence is not sufficient for the purposes of meeting the burden of proof in these proceedings. *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)).

Second, according to the petitioner's resume and an undated document entitled "A More Detailed Description of Jobs Mentioned Under 'Working Experience,'" the petitioner has held a number of positions, including working as an information officer for the Institute of Social Studies, an internet coordinator for the an art project coordinator for six artists, an information assistant for the and a librarian and technology fellow for . The petitioner has not shown or explained if these positions fall within the field of anthropology, or that her accomplishments in these positions contributed to the field of anthropology. For example, according to an April 2003 letter from Dean, Information Services and Director of College Libraries, the petitioner joined as a technology fellow for the social sciences. She ran and expanded "the Reserves Office, dealing with electronic resources for faculty and students." She also "manage[d] the collection of more than 20,000 pages of data, create[d] digital files . . . and populate[d] a database for online presentation of this data to students and faculty." The petitioner has not shown or explained how her duties at which dealt with electronic databases, fell within the field of anthropology. As the petitioner is seeking classification as an alien of extraordinary ability in the field of anthropology, she must establish her original contributions of major significance in the field of anthropology. She must establish that her work has impacted the field of anthropology, such that her work fundamentally changed or significantly advanced the field as a whole. The petitioner has not made such a showing.

Third, the petitioner has not shown that her involvement in animal rescue and animal care constitutes her contributions in the field of anthropology. The petitioner has submitted evidence showing her founding of the website for According to a business plan for the organization is "a non-profit, web-based organization that will link animal rescuers nationwide and educate the public on animal rescue and the humane treatment of animals." As discussed above, despite the letter from Dr. the petitioner has not sufficiently established or explained how animal rescue and animal care fall within the field of anthropology. The petitioner has submitted a May 12, 2013 unsigned letter from Dr. Department Chair for Animal Studies with the indicating that the petitioner was "in the process of setting up her own non-profit organization to improve the scope and quality of animal

rescue in the U[nited] S[tates]." and that given the petitioner's "determination, creativity and follow-through," Dr. is "confident of [the organization's] success." As the letter is unsigned, it has no probative value. Moreover, the letter does not mention the petitioner's work in the field of anthropology, or establish that the petitioner's past work already constitutes original contributions of major significance in the field of anthropology.

Finally, although the petitioner's 1994 three-month fieldwork project in which was part of her Master's degree thesis, constitutes work in the field of anthropology, the petitioner has not shown what impact, if any, the project has had in the field of anthropology. To establish she meets this criterion, not only does the petitioner have to show impact in the field, she has to show impact that constitutes original contributions of major significance in the field. The petitioner has not made such a showing. Indeed, none of the reference or recommendation letters in the record mentions the petitioner's 1994 project in The record also lacks objective evidence of the impact of this work, such as, for example, evidence that the petitioner authored widely and frequently cited articles in peer reviewed anthropology journals reporting the results of this project, or that she designed project proposals that have been widely implemented. 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).

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 of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.* 8 C.F.R. § 204.5(h)(3)(vi).

The petitioner has not submitted any evidence showing that she meets this criterion. On appeal, the petitioner asserts that she meets the "publications" criterion because she wrote and edited articles for a number of organizations. As supporting evidence, the petitioner points to her resume, which among other information, indicates that she created newsletters, assisted in the publication of a project booklet, wrote computer program manuals, and put together a manual. As discussed above, the petitioner's uncorroborated statements in her resume are not themselves evidence. *Matter of Soffici*, 22 I&N Dec. at 165 (citing *Matter of Treasure Craft of California*, 14 I&N Dec. at 190). Even if the petitioner's resume constituted probative evidence, that document and the remaining evidence in the record do not establish that the petitioner has authored any scholarly articles, or that any of her articles have been published in professional, major trade publications or other major media, as required under the plain language of the criterion.

Moreover, the petitioner has not shown that the materials posted on the website of constitute "scholarly articles in the field" of anthropology, in which she claims extraordinary ability.

The petitioner has also not submitted information relating to the website, such as its traffic or reach, that establishes the website as a professional, major trade publication or other major media.

Furthermore, the petitioner's assertion that she coordinated an art project that led to the publication of a book is insufficient to show that she meets this criterion. The petitioner has submitted photocopies of a number of book covers. These photocopies do not show that the petitioner authored these books. The petitioner has also not shown that these books constitute "scholarly articles in the field" of anthropology.

Accordingly, the petitioner has not presented evidence of her authorship of scholarly articles in the field, in professional or major trade publications or other major media. The petitioner has not met this criterion. *See* 8 C.F.R. § 204.5(h)(3)(vi).

> *Evidence of the display of the alien's work in the field at artistic exhibitions or showcases.* 8 C.F.R. § 204.5(h)(3)(vii).

On appeal, the petitioner asserts that she meets this criterion. The petitioner, however, is not a visual artist. The plain language of the criterion suggests that the criterion is limited to evidence relating to the visual arts. This interpretation is longstanding and has been upheld by a federal district court. *See Negro-Plumpe v. Okin*, 2:07-CV-820-ECR-RJJ at 1, 7 (D. Nev. Sept. 8, 2008) (upholding an interpretation that performances by a performing artist do not fall under the regulation at 8 C.F.R. § 204.5(h)(3)(vii)). The petitioner is seeking the exclusive classification as an anthropologist, not as a visual artist. She is not a visual artist and has not created tangible pieces of art that were on display at artistic exhibitions or showcases. Accordingly, the petitioner has not presented evidence of the display of her work in the field at artistic exhibitions or showcases. The petitioner has not met this criterion. *See* 8 C.F.R. § 204.5(h)(3)(vii).

> *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).

On appeal, the petitioner asserts that she meets this criterion because of the work she performed for and because her resume shows that she has "written and edited many articles for newsletters and manuscripts for publication for other organizations." The evidence in the record does not establish that the petitioner meets this criterion.

First, the petitioner has not shown that between 2001 and 2006, when she was employed at library, she served in a leading or critical role or that the library was an organization or establishment that had a distinguished reputation. The petitioner asserts on appeal that she submitted letters attesting to the importance of her work and that is "a renowned college." Mr. describes the petitioner's duties at but does not explain how her role fit within the overall hierarchy of the library or the college such that it is apparent that her role for either was a leading one. Further, while Mr. implies in general and conclusory terms that she has shaped the future of digital library resource delivery on campus, he does not provide any specifics as to how

the petitioner had an impact on the library consistent with a critical role for the library. USCIS need not accept primarily conclusory assertions. *1756, Inc. v. The Attorney General of the United States,* 745 F. Supp. 9, 15 (D.C. Dist. 1990).

Moreover, the petitioner has not submitted any evidence in support of her assertion relating to the reputation of Going on record without supporting documentary evidence is not sufficient for the purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165. Moreover, assuming *arguendo* that "a renowned college" is also an organization or establishment that has a distinguished reputation, the petitioner has not shown that any and all parts of the school, including its library, are also individually organizations and establishments of a distinguished reputation. The relevant documents from including Mr. April 2003 letter, an undated and unsigned statement written on letterhead, and a September 2003 job offer, does not discuss the reputation of the library or establish that it had a distinguished reputation. On appeal, the petitioner has not pointed to any evidence in the record that establishes the reputation of the library.

Second, as noted, the petitioner's resume, without corroborating evidence, does not constitute probative evidence of the petitioner's eligibility for the exclusive classification sought. Notably, the regulation at 8 C.F.R. § 204.5(g)(1) provides that evidence of experience "shall" consist of letters from current or former employers. Furthermore, assuming *arguendo* that the petitioner did write and edit materials for organizations, the petitioner has not shown that her role as an author and/or editor for these organizations is either leading or critical to the organizations. The petitioner has also not submitted evidence relating to the reputation of the organizations and, thus, has not established that they have a distinguished reputation.

Accordingly, the petitioner has not 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).

C. Summary

The record includes other evidence not specifically discussed above, including: (1) documents relating to the petitioner's biographic information, educational history, and earning information, (2) an uncorroborated email from the petitioner attesting to two fellowships of undocumented significance or relevance to anthropology, (3) other written correspondence including a letter advising her that her job at had become "redundant" due to digitalization, and (4) reference and recommendation letters. We have considered all the evidence in the record and conclude that the evidence does not pertain to the antecedent regulatory requirement of presenting at least three types of evidence in the field of endeavor, anthropology, as required under the regulation at 8 C.F.R. § 204.5(h)(3).

III. CONCLUSION

The documentation submitted in support of a claim of extraordinary ability must clearly demonstrate that the alien has achieved sustained national or international acclaim and is one of the small percentage who have risen to the very top of the 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.[4]

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.

[4] 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).