U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

(b)(6)

U.S. Citizenship and Immigration Services

DATE: JAN 0 9 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 immigrant visa petition and the matter is now before the Administrative Appeals Office on appeal. We will dismiss the appeal.

The petitioner seeks classification as an "alien of extraordinary ability" in athletics, pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as a mixed martial arts (MMA) fighter.[1] The director determined that the petitioner had not satisfied the initial evidence requirements set forth at 8 C.F.R § 204.5(h)(3), which requires documentation of a one-time achievement or evidence that meets at least three of the ten regulatory criteria.

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

I. LAW

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

> (1) Priority workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):
>
> > (A) Aliens with extraordinary ability. -- An alien is described in this subparagraph if --
> >
> > > (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
> > >
> > > (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
> > >
> > > (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

[1] According to information on the Form I-140, Immigrant Petition for Alien Worker, the petitioner was last admitted to the United States on January 31, 2013 as a B-2 nonimmigrant visitor for pleasure.

U.S. Citizenship and Immigration Services (USCIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* H.R. 723 101st Cong., 2d Sess. 59 (1990); 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). The term "extraordinary ability" refers only to those individuals in that small percentage who have risen to the very top of the field of endeavor. *Id.*; 8 C.F.R. § 204.5(h)(2).

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

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

II. ANALYSIS

A. Translations

Although the director did not address this issue, the record of proceeding reflects that the petitioner submitted numerous foreign language documents without any English language translations, as well as some non-certified English language translations. We conduct appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004); *Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989). The regulation at 8 C.F.R. § 103.2(b) provides in pertinent part:

> (3) *Translations.* Any 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.

At the time of filing, the petitioner submitted a single translation certification, which states that it certifies the translation "of the document entitled or pertaining to [the petitioner]." It is unclear to which of the submitted documents, if any, the certification pertains. The submission of a single

translation certification that does not identify the document or documents it purportedly accompanies does not meet the requirements of the regulation at 8 C.F.R. § 103.2(b)(3). Because the petitioner failed to submit a certified English language translation for each foreign language document, we cannot determine whether the evidence supports the petitioner's claims. Accordingly, the evidence is not probative and will not be accorded any weight in this proceeding.

B. One-time Achievement

Under the regulation at 8 C.F.R. § 204.5(h)(3), the petitioner may, as initial evidence, present evidence of a one-time achievement that is "a major, internationally recognized award." In a July 24, 2013 letter accompanying the Form I-140 petition, the petitioner stated that he "is a professional MMA fighter which could be easily considered a 'one time major achievement.'" The director determined that the petitioner had not established that he received a major, internationally recognized award. On appeal, the petitioner's brief states, without further explanation, that he has "submitted proof of his one-time major achievement." The petitioner does not provide any additional evidence or offer any additional arguments identifying any errors of law or fact in the director's analysis. Therefore, the petitioner has abandoned this issue. *Desravines v. U.S. Atty. Gen.*, 343 Fed.Appx. 433, 435 (11th Cir. 2009)(finding that issues for which the petitioner makes no substantive argument on appeal are deemed abandoned). Regardless, the petitioner's purported achievement, becoming a professional MMA fighter, does not meet the regulatory requirements of a one-time achievement, which states that a one-time achievement is "a major, internationally recognized award." Congress' example of a one-time achievement is a Nobel Prize. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990). The regulation is consistent with this legislative history. 8 C.F.R. § 204.5(h)(3). As the petitioner has neither asserted nor submitted evidence that he has received such an award, the petitioner must present at least three of the ten types of evidence under 8 C.F.R. § 204.5(h)(3)(i)-(x) to meet the basic eligibility requirements.

C. Evidentiary Criteria[2]

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 director determined that the petitioner's evidence did not to meet the requirements of this regulatory criterion. The director stated that the petitioner had submitted evidence that he won "several fights, including the [redacted] [and] [redacted]' as well as evidence of certificates he received. The director found, however, that the petitioner had not established that the prizes or awards were given for excellence in the field, or that the awards were nationally or internationally recognized. On appeal, the petitioner's brief contends that winning any of these fights requires excellence in the field and that the competitors, "when victorious, are internationally recognized." The brief further states that the petitioner competed in two additional fight events while his Form I-140 petition was pending.

[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.

The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i) requires "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor." It is the petitioner's burden to establish that the evidence meets every element of this criterion. Not only must the petitioner demonstrate his receipt of prizes and awards, he must also demonstrate that those prizes and awards are nationally or internationally recognized for excellence in the field of endeavor.

First, we withdraw the director's finding that the petitioner submitted sufficient evidence to establish that he won the three fights cited above. As previously stated, we conduct appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d at 145; *Dor v. INS*, 891 F.2d at 1002 n. 9 (. As initial evidence of these awards, the petitioner submitted a list of the dates and locations of various tournaments, indicating his purported placement in each tournament. The petitioner also submitted a translation of a letter from the secretary of ' purportedly congratulating the petitioner's father "for the recent won by your son." In addition, the petitioner submitted translations of news articles from various publications, some of which purportedly stated that the petitioner placed second in the juvenile, medium weight, blue belt category at the Brazil, in and placed first in that category in a Brazilian championship of . Neither the letter nor the articles were accompanied by a full, certified English language translation as required by the regulation at 8 C.F.R. § 103.2(b)(3). In response to a Request for Evidence (RFE) from the director, the petitioner submitted a letter from CEO and president of Florida, stating in part that the petitioner won the following titles: in him [sic] weight class; and second place in the ." Finally, the petitioner submitted a photograph of the medal with the engraved words '"

Regarding the submitted photograph, no translation was provided for the words on the medal, nor did the photograph of the medal reflect that the medal was presented to the petitioner. Although the petitioner indicated that he received the medal for placing second in the ' " there is no documentary evidence to support that assertion. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Assoc. Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)). As the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i) requires "[d]ocumentation of the alien's receipt" of awards, submitting photographs of medals or trophies that do not identify the recipient is insufficient to demonstrate that the petitioner actually garnered the medals or trophies.

The petitioner did not submit primary evidence of his receipt of the awards in question. According to the regulation at 8 C.F.R. § 103.2(b)(2)(i), only where the petitioner demonstrates that primary evidence does not exist or cannot be obtained may the petitioner rely on secondary evidence and only where secondary evidence is demonstrated to be unavailable may the petitioner rely on affidavits. As noted above, the submitted photograph of the petitioner's purported medal from the ' did not identify a recipient, and the submitted news articles were

not accompanied by the required full, certified English language translation. The petitioner did not submit any documentary evidence demonstrating that primary evidence and secondary evidence do not exist or are unavailable. Further, the letter from Mr. the list of tournaments submitted at filing, and the petitioner's assertions in the appellate brief and in the correspondence supporting the petition are not affidavits. Accordingly, the petitioner has not submitted supporting documentation in accordance with the regulation at 8 C.F.R. § 103.2(b)(2)(i).

For the reasons discussed above, the petitioner did not submit sufficient evidence to establish that he won awards at the " " Further, the petitioner did not establish that these awards are nationally or internationally recognized. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i) requires that the petitioner's awards be nationally or internationally recognized in the field of endeavor, and it is the petitioner's burden to establish every element of this criterion. An award with in the title does not automatically elevate the award to a nationally or internationally recognized award. Without supporting documentary evidence, the name of an award is insufficient to establish that it is a nationally or internationally recognized award for excellence in the field. In the letter accompanying the petition, the petitioner asserted that the above awards "are known worldwide for being given to the best of the field of mixed martial arts and ." In support of that assertion, the petitioner submitted the above-mentioned "letter of congratulations" and news articles which, as discussed previously, were not accompanied by full, certified English language translations as required under 8 C.F.R. § 103.2(b)(3). In addition to the lack of certified translations, the petitioner did not sufficiently identify the sources of the news articles to establish national or international recognition of the named awards. In response to the RFE, the petitioner asserted that the is a "worldwide" competition, and that "[t]here is a panel of judges who are all black belts in and various MMA styles of fighting." The petitioner did not, however, present any evidence regarding the competitors or judges in the tournament to support this assertion. Again, 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. at 165.

Regarding the petitioner's contention on appeal that he participated in additional fight events after filing the petition, eligibility must be established at the time of filing. 8 C.F.R. § 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). Accordingly, we cannot consider evidence regarding fight events held after July 26, 2013 to establish the petitioner's eligibility at the time of filing.

Although not discussed by the director, the petitioner submitted evidence that he received a first place award in the U.S. Open competition. Again, we conduct appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d at 145; *Dor v. INS*, 891 F.2d at 1002 n. 9. The petitioner submitted "Event Results" from the website (www. indicating that the petitioner won first place in the ' category, as well as a photograph of the petitioner with the title belt from the competition. While the petitioner demonstrated that he won this award, the petitioner did not submit any documentary evidence establishing that the award is nationally or internationally recognized for

excellence in the field of MMA. Submitting evidence of the petitioner's receipt of a prize or award is insufficient to meet the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i) without documentary evidence reflecting that the prize or award is nationally or internationally recognized for excellence in the field of endeavor. In addition, the petitioner's receipt of the award would not meet the requirements of 8 C.F.R. § 204.5(h)(3)(i), as the plain language of the regulation requires "[d]ocumentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor" in the plural, which is consistent with the statutory requirement for extensive documentation. *See* section 203(b)(1)(A)(i) of the Act.

For the reasons discussed above, the petitioner has not met the requirements of this criterion.

> *Documentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields. 8 C.F.R. § 204.5(h)(3)(ii).*

The director determined that the petitioner did not establish eligibility for this criterion. In his brief submitted on appeal, the petitioner did not contest the findings of the director for this criterion or offer additional arguments. When an appellant fails to offer argument on an issue, that issue is abandoned. *Sepulveda v. U.S. Att'y Gen.,* 401 F.3d 1226, 1228 n. 2 (11th Cir. 2005); *Hristov v. Roark*, No. 09–CV–27312011, 2011 WL 4711885 at *1, *9 (E.D.N.Y. Sept. 2011) (plaintiff's claims abandoned when not raised on appeal). Accordingly, the petitioner does not meet this criterion.

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

The director found that the petitioner failed to establish eligibility for this regulatory criterion. The director stated that the submitted published material was deficient in that it did not include titles, dates, and authors of the submitted articles, and the petitioner failed to submit requested information including the circulation and intended audience of the publications. The director determined that the petitioner failed to establish that the submitted material was published in professional or major trade publications. On appeal, the petitioner submits additional evidence and contends in his brief that he has submitted "multiple articles and videos published and released on major media outlets."

This regulation at 8 C.F.R. § 204.5(h)(3)(iii) contains several evidentiary requirements the petitioner must satisfy. First, the published material must be about the petitioner and the contents must relate to the petitioner's work in the field under which he seeks classification as an immigrant. The published material must also appear in professional or major trade publications or other major media (in the plural). The final requirement is that the petitioner provide each published item's title, date, and author and, if the published item is in a foreign language, the petitioner must provide a translation that complies with the requirements found at 8 C.P.R. § 103.2(b)(3). The petitioner must

submit evidence satisfying all of these elements to meet the plain language requirements of this criterion.

The petitioner's July 24, 2013 letter, submitted with the Form I-140 petition, stated the following regarding this criterion:

> [The petitioner] has been the subject of numerous newspaper and magazine articles throughout his fighting career. We have attached some of these articles to substantiate this category and provide evidence of [the petitioner's] eligibility. . . . The attached documents include articles form several international periodicals. We've attached a small sample for your consideration.
>
> [The petitioner] has also been the subject of several television publications, many videos of which have been featured on YouTube and viewed thousands of times by fans. http://www An internet search of [the petitioner] will reveal several more television publications.

As supporting evidence, the petitioner submitted copies of non-English language articles from The accompanying English translations of these articles were not certified in accordance with the regulation at 8 C.F.R. § 103.2(b)(3), nor did they identify the dates and authors of the articles as required by this regulatory criterion. The petitioner also submitted printouts from various websites listing the results of fight events in which the petitioner competed. The websites included www. and www

The director's RFE requested certified translations of all non-English language documents. In addition, the director instructed the petitioner to submit additional evidence under this criterion, including evidence to establish that the publications qualify as professional or major trade publications or other major media. The petitioner's November 26, 2013 letter responding to the director's RFE stated:

> are very famous well-known publications in and world-wide. They encompass all different sports but as MMA is very popular in often pieces are dedicated to MMA. They discuss all the MMA tournaments, especially They are not free publications but need to be paid for by the readers.

On appeal, the petitioner's brief asserts that ' are nationally and regionally recognized newspapers in , with circulations of over 2 million copies." The petitioner did not submit certified English language translations of the previously submitted articles, nor did he submit any documentary evidence regarding the readership or

[3] The petitioner submitted additional photocopies of articles on which the name of the publication was not included or was not legible.

circulation of the named publications. As previously stated, 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. at 165. Therefore, the submitted articles from the named publications are insufficient to establish eligibility under this criterion.

The petitioner's brief on appeal also asserts that the websites and www. qualify as major media. The petitioner submits statistics from each of those websites regarding their number of online visitors, as well as a printout of the petitioner's profile and additional event results from www Rather than providing impartial documentary evidence, the petitioner submitted background information from the publications' or organizations' websites. USCIS, however, need not rely on self-promotional material. *See Braga v. Poulos,* No. CV 06 5105 SJO, *aff'd* 317 Fed. Appx. 680 (C.A.9) (concluding that the AAO did not have to rely on self-serving assertions on the cover of a magazine as to the magazine's status as major media). There is no objective evidence showing that the named websites are major media.

Furthermore, the record does not include any articles about the petitioner on the above named websites. On and www. the petitioner has submitted listings of event results in which he is named, and a profile that includes his name, age, height, weight, association, and fight history. The submission of results from a sporting event without any discussion of the petitioner and his work is not consistent with the meaning of published material about the alien pursuant to the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(iii). Similarly, the submitted profile does not meet the regulatory requirements as it does not include a discussion of the petitioner's work, nor does it include a date and author.

With regard to www. the petitioner's brief asserts that "[t]he videos submitted as part of [the petitioner's] I-140 petition each have over one thousand views." The petitioner does not submit documentary evidence in support of that assertion. Again, 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. at 165 (citing *Matter of Treasure Craft of California*, 14 I&N Dec. at 190). Moreover, we are reluctant to consider the number of "views" documented on because "views" can be self-generated. In addition, regardless of the number of views, the presence of a video clip on a user-edited website such as www. does not indicate that the material has been "published" in major media according to the plain language of 8 C.F.R. § 204.5(h)(3)(iii). The petitioner has not demonstrated that an undeniably overall popular website but ultimately one where anyone with a computer can upload their videos, constitutes major media coverage about an individual athlete whose video footage appears on the site. The petitioner did not submit the title, date and author of the purported videos, nor did he submit evidence that the video clips are independent, journalistic coverage of the petitioner relating to his work.

Finally, on appeal, the petitioner submits a February article from .com, in part discussing the petitioner's role in a fight event, " As this article was published after the petition was filed, it does not establish the petitioner's eligibility at the time of filing. Eligibility must be established at the time of filing. 8 C.F.R. § 103.2(b)(1), (12); *Matter*

of Katigbak, 14 I&N Dec. at 49. Further, the petitioner has not submitted evidence to establish that .com constitutes a professional or major trade publication or form of major media.

Based on the above discussion, the petitioner has not met the requirements of this criterion.

> *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).*

The director discussed the evidence submitted for this criterion and found that the petitioner failed to establish his eligibility. The director stated that "the evidence does not indicate that the beneficiary's works were displayed at artistic exhibitions or showcases." On appeal, the petitioner does not contest the director's findings for this criterion or offer additional arguments. The issue, therefore, is considered abandoned. *Sepulveda*, 401 F.3d at 1228 n.2; *Hristov*, 2011 WL 4711885, at *9. Accordingly, the petitioner has not established that he meets this regulatory criterion.

> *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 determined that the petitioner failed to meet the requirements of this criterion. The director discussed an October 30, 2013 letter from Florida, but concluded that the evidence failed to demonstrate that the petitioner performed a leading or critical role for the organization. On appeal, the petitioner asserts in his brief that he plays a critical role in as "a member of the " a sparring/training partner for other MMA fighters, and a fight instructor within the academy.

The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(viii) requires "[e]vidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation." In general, a leading role should be apparent by its position in the overall organizational hierarchy, and a critical role should be apparent from the petitioner's significant impact on the organization or the establishment's activities. The petitioner must also demonstrate that the organizations or establishments (in the plural) have a distinguished reputation. The petitioner must submit evidence satisfying all of these elements to meet the plain language requirements of this criterion.

In support of the petition, the petitioner submitted a March 20, 2013 letter from "CEO and President of stating that the petitioner is a competitive MMA fighter at and that he "trains with top contender[s] at our academy." Mr. further stated that the petitioner is "an asset to the community." The petitioner also submitted a July 10, 2013 letter from who identified herself as a professional fighter at and "the first female professional mixed martial artist that is [signed] with the biggest mixed martial arts promotion in the world, " Ms. asserted that the petitioner is a talented fighter, "one of the best training partners that I have trained with," and "a huge part to [sic] the professional fight team." In addition, the petitioner submitted an undated letter from who identified himself as a professional mixed

martial artist and the "founder and owner of the largest organization in Florida, " Mr. stated that he found in his search for "a more elite training camp," and that the petitioner has served as his training partner there. Further, he stated that the petitioner "is often the first one in the gym and the last one to leave, making sure to help in any way he can in the meantime, whether it is instructing new students, helping clean the mats and cage, or working on his English with new friends."

In response to the director's RFE, the petitioner submitted an additional letter from Mr. dated October 30, 2013 in which he stated:

> [The petitioner] is a competitive fighter as well as a Lead instructor at [The petitioner] is regarded as one of the nation's top Black Belts in the sport of as well as
>
> In addition to being a great competitive fighter, [the petitioner] is also one of the best instructors I have had the opportunity to watch instruct on the mat. His knowledge, patience, and generosity with the students in our academy are limitless. There are very few individuals in this sport who demonstrate these values and [the petitioner] is one of those few.
>
> My Academy is fortunate to have [the petitioner] as one of its Lead instructors.

The petitioner also submitted various letters of recommendation from individuals attesting to the petitioner's character and his skills as an MMA fighter, teacher, coach, training partner, and student. On appeal, the petitioner notes that he trains with many of the other MMA fighters at and contends that "training is critical for an MMA fighter." The petitioner also asserts that he is an asset to and plays "a critical role" for the organization.

The petitioner has submitted evidence that he is "one of [the] Lead instructors" at However, the job title alone does not establish the nature of the petitioner's role as either leading or critical. The letters from do not describe how the petitioner's position fits within the overall hierarchy of the organization, nor did the petitioner provide an organizational chart or other similar evidence. In addition, the petitioner did not submit any documentary evidence differentiating his role from that of the other employees at so as to establish that he performed in a leading or critical role. The submitted letters fall short of specifying how the petitioner contributed to the organization in a way that was significant to its success or standing. Accordingly, the record does not establish that the petitioner served in a leading or critical role for as required under this regulatory criterion. Moreover, the petitioner did not submit evidence to establish that has "a distinguished reputation," as required under 8 C.F.R. § 204.5(h)(3)(viii).

Furthermore, the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(viii) requires the petitioner to perform in a leading or critical role for "organizations or establishments" in the plural. The use of the plural is consistent with the statutory requirement for extensive evidence. Section

203(b)(1)(A)(i) of the Act. Significantly, not all of the criteria at 8 C.F.R. § 204.5(h)(3) are worded in the plural. Specifically, the regulations at 8 C.F.R. § 204.5(h)(3)(iv) and (ix) only require service on a single judging panel or a single high salary. When a regulatory criterion wishes to include the singular within the plural, it expressly does so as when it states at 8 C.F.R. § 204.5(k)(3)(ii)(B) that evidence of experience must be in the form of "letter(s)." Thus, the plural in the remaining regulatory criteria has meaning. In a different context, federal courts have upheld USCIS' ability to interpret significance from whether the singular or plural is used in a regulation. *Cf. Maramjaya v. USCIS*, Civ. Act. No. 06-2158 (RCL) at *1, *12 (D.C. Cir. March 26, 2008); *Snapnames.com Inc. v. Chertoff*, 2006 WL 3491005, at *1, *10 (D. Or. Nov. 30, 2006) (upholding an interpretation that the regulatory requirement for "a" bachelor's degree or "a" foreign equivalent degree at 8 C.F.R. § 204.5(l)(2) requires a single degree rather than a combination of academic credentials).

In light of the above, the petitioner has not established that he meets this regulatory criterion.

D. Summary

The petitioner has failed to satisfy the antecedent regulatory requirement of three categories of evidence.

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 has 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]

[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

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.

(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).