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

[redacted]

DATE: JAN 1 2 2015 Office: TEXAS SERVICE CENTER FILE: [redacted]

IN RE: Petitioner: [redacted]
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.

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 sustain the appeal.

The petitioner, a biomedical researcher, seeks classification as an "alien of extraordinary ability" in the sciences, 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 a statement contesting the director's decision and a brief. In the brief, the petitioner asserts that he meets the categories of evidence at 8 C.F.R. § 204.5(h)(3)(i), (iii), (iv), (v), (vi), and (viii). The petitioner's appellate statement contains assertions that are unsupported by legal authority. For example, the petitioner's assertion that the director's decision was "fundamentally flawed" because he did not consider the evidence in the aggregate is not persuasive. Where the director concludes that a petitioner has not submitted the requisite initial evidence through the submission of documentation that satisfies at least three regulatory criteria, no further analysis is required. *Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (holding that if the petitioner failed to submit sufficient evidence, "the proper conclusion is that the applicant has failed to satisfy the regulatory requirement of three types of evidence"). Finally, the petitioner's focus on the amount of documentation he submitted is also not persuasive. USCIS determines the truth not by the quantity of evidence alone but by its quality. *Matter of Chawathe,* 25 I&N Dec. 369, 376 (AAO 2010) citing *Matter of E-M-* 20 I&N Dec. 77, 80 (Comm'r 1989). Nevertheless, based on the evidence of record, we find that the petitioner meets the statutory and regulatory requirements for classification as an alien of extraordinary ability. Notably, the director correctly concluded that the petitioner meets the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vi). We need only find that the petitioner established that he met one additional criteria (rather than all of the criteria the petitioner claims to meet) to conclude that the petitioner has satisfied the initial evidence requirements. As discussed below, we find that the petitioner has also demonstrated that he satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(v).

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. *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*, 596 F.3d at 1115 (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. at 376 (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. Evidentiary Criteria

The petitioner received a Master of Medical Sciences degree in Clinical Medicine from [redacted] and a Master of Science degree in Biomedical Sciences from [redacted] Subsequently, the petitioner earned his Ph.D. in Environmental Health at the [redacted] Currently, the petitioner is working in the Department of Critical Care Medicine at the [redacted] We find that the petitioner's evidence meets the following three categories of evidence under 8 C.F.R. § 204.5(h)(3).

Evidence of the alien's participation, either individually or on a panel, as a judge of the work of others in the same or an allied field of specification for which classification is sought.

The petitioner submitted documentation showing that he served as a peer reviewer of an exceedingly large number of articles for multiple journals such as In addition, the co-Editors in Chief of the appointed the petitioner as a member of Editorial Board and the invited the petitioner to serve as a poster judge at the 2012 symposium. Accordingly, the evidence supports the director's finding that the petitioner meets this regulatory criterion.

Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

The director determined that the petitioner did not establish eligibility for this criterion. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(v) requires "[e]vidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field." A review of the record of proceeding reflects that the petitioner submitted sufficient documentary evidence establishing that the petitioner meets the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(v). The petitioner submitted letters of support from experts in the field discussing the significance of his original research contributions. The experts' statements do not merely reiterate the regulatory language of this criterion, they describe how the petitioner's scientific contributions are both original and of major significance in the field. For example, Dr. , a professor at the asserts that the petitioner's work on "the guidance significance of [a magnetic resonance imaging (MRI)] scan for microvascular decompression in 2005, which explores the pathogenesis of neurological cranial diseases through MRI observation of vessels and nerves, offers a great method to observe the position correlation of nerves and vessels in a physiological state, and is of great significance in guiding surgery." Dr. , President of the discusses the petitioner's work on traumatic brain injury and concludes that this work has "helped many scientists around the world including myself in our work."

Significantly, in support of the experts' statements, the petitioner submitted documentation showing numerous independent cites to his published findings. In addition to the volume of cites, the content of the citations reveal that other researchers have not only referenced the petitioner's work, but built on it. For example, a 2013 article in the by an independent research team cites the petitioner's work as identifying a new target for neuro-drug discovery and further investigates that target and two others. These citations are solid evidence that help support a conclusion that the petitioner's work has influenced and is familiar to other researchers. This evidence corroborates the experts' statements that the petitioner has made original contributions of major significance in his field that go well beyond merely adding to the general pool of knowledge as all original research does. In addition, the petitioner submitted evidence showing that the media have reported on his findings from a study that he first-authored and published in

While some of this media consists of press releases, other examples are independent reports of the petitioner's work. The submitted documentation shows that the petitioner's contributions are important not only to the institutions where he has worked, but throughout the greater field as well. Leading researchers and news media have acknowledged the value of the petitioner's work and its major significance in the field. Accordingly, given all of the evidence in the aggregate, the petitioner has established that he meets this regulatory criterion.

Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.

The petitioner submitted evidence of his authorship of scholarly articles in professional journals such as Accordingly, the evidence supports the director's finding that the petitioner meets this regulatory criterion.

B. Summary

The petitioner has submitted the requisite initial evidence, in this case, evidence that satisfies three of the ten regulatory criteria.

C. Final Merits Determination

We will next conduct 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[ir] field of endeavor," 8 C.F.R. § 204.5(h)(2); 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." Section 203(b)(1)(A) of the Act; 8 C.F.R. § 204.5(h)(3). *See also Kazarian,* 596 F.3d at 1119-20.

In the present matter, the petitioner has submitted extensive documentation of his achievements in the biomedical field and has demonstrated a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990). The submitted evidence, in the aggregate, is sufficient to demonstrate the petitioner's sustained national acclaim as a researcher and that his achievements have been recognized in the field of expertise. In addition, the submitted documentation shows that the petitioner is among that small percentage who have risen to the very top of the field of endeavor. The petitioner peer-reviewed an exceedingly large number of articles for multiple journals and received an appointment to the Editorial Board of the In addition, the petitioner authored a number of articles in distinguished journals that have garnered an unusually large number of citations, some of which apply and build upon the petitioner's work. *See Kazarian*, 596 F.3d at 1121 (citations may be relevant to the final merits determination of whether an alien is at the very top of his field). Moreover, the petitioner's research findings have been reported in the media and not merely through online press releases. Furthermore, the petitioner submitted reference letters from independent experts in the field, detailing his specific contributions and explaining how those contributions are of major significance in his field. For example, Dr. , after discussing examples of the petitioner's specific achievements and their impact on his own work, concludes that the petitioner's "over a decade of successful research as an outstanding medical scientist in China and in the United States . . . has received sustained national and

international acclaim." While we need not accept unsupported conclusory assertions,[1] the evidence of record, including evidence not discussed in this decision, supports that conclusion. Thus, in light of the evidence discussed herein and other corroborating evidence of record, the petitioner's achievements in the aggregate are commensurate with sustained national acclaim at the very top of his field.

III. CONCLUSION

In review, the petitioner has submitted evidence qualifying under at least three of the ten categories of evidence and established a "level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the[ir] field of endeavor" and "sustained national or international acclaim." His achievements have been recognized in his field of expertise. The petitioner has established that he seeks to continue working in the same field in the United States. The petitioner has established that his entry into the United States will substantially benefit prospectively the United States. Therefore, the petitioner has established eligibility for the benefit sought under section 203 of the Act.

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 been met.

ORDER: The appeal is sustained and the petition is approved.

[1] *See 1756, Inc. v. The Attorney General of the United States,* 745 F. Supp. 9, 15 (D.C. Dist. 1990).