(b)(6)

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

U.S. Citizenship and Immigration Services

DATE: JUN 1 2 2015

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:

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to 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.

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), 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 brief with additional documentary 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 are 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.

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 petitioner's sustained acclaim and the recognition of the petitioner'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. Evidence Deriving from *Wikipedia*

The petitioner supports multiple forms of evidence and assertions of eligibility with documentation deriving from *Wikipedia*. With regard to information from *Wikipedia*, there are no assurances about the reliability of the content from this open, user-edited Internet site.[1] *See Lamilem Badasa v. Michael Mukasey,* 540 F.3d 909 (8th Cir. 2008). Relying on this court citation within his decision, the director declined to consider the information from *Wikipedia*. On appeal, the petitioner indicates that the

[1] Online content from *Wikipedia* is subject to the following general disclaimer, "WIKIPEDIA MAKES NO GUARANTEE OF VALIDITY. *Wikipedia* is an online open-content collaborative encyclopedia, that is, a voluntary association of individuals and groups working to develop a common resource of human knowledge. The structure of the project allows anyone with an Internet connection to alter its content. Please be advised that nothing found here has necessarily been reviewed by people with the expertise required to provide you with complete, accurate or reliable information. . . . *Wikipedia* cannot guarantee the validity of the information found here. The content of any given article may recently have been changed, vandalized or altered by someone whose opinion does not correspond with the state of knowledge in the relevant fields. *See* http://en.wikipedia.org/wiki/Wikipedia:General_disclaimer, accessed on May 19, 2015, a copy of which is incorporated into the record of proceeding.

director violated due process by entirely rejecting the evidence from *Wikipedia*, asserting that the source should only "go to the weight afforded to such evidence." The petitioner has not documented or asserted that information from *Wikipedia* is, in fact, reliable such that it should carry any evidentiary weight within the present proceedings; nor has he explained how the above cited court case is not applicable in this instance. Therefore, the documentation from *Wikipedia* carries no evidentiary weight within the present proceedings.

B. 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.

This criterion contains several evidentiary elements the petitioner must satisfy. According to the plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(i), the evidence must establish that the petitioner is the recipient of the prizes or the awards. The clear regulatory language requires that the prizes or the awards are nationally or internationally recognized. The plain language of the regulation also requires the petitioner to submit evidence that each prize or award is one for excellence in the field of endeavor rather than simply for participating in or contributing to an event or to a group. The petitioner must satisfy all of these elements to meet the plain language requirements of this criterion.

The petitioner provided several awards for wrestling, primarily in youth or junior competitions. The director determined that the petitioner did not meet the requirements of this criterion, as the evidence did not demonstrate that the petitioner's age-limited awards were open to the entire field, and that such awards were not issued for excellence "in the field of endeavor." While the petitioner sufficiently addresses this aspect of the director's decision, his submitted evidence has not satisfied all of this criterion's requirements. Specifically, while we do not contest that some age-limited youth awards may qualify as nationally or internationally recognized awards, it is the petitioner's burden to demonstrate that his particular awards are recognized at this level.

The petitioner demonstrated that he was the recipient of prizes or awards for excellence in the field. A prize or an award does not garner national or international recognition from the competition in which it is awarded, nor is it derived from the individual or group that issued the award. Rather, national and international recognition results through the awareness of the accolade in the eyes of the field nationally or internationally. This recognition should be evident through specific means; for example, through media coverage. Additionally, unsupported conclusory letters from those in the petitioner's field are not sufficient evidence that a particular prize or award is nationally or internationally recognized. *See 1756, Inc. v. The Attorney General of the United States*, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

Regarding whether his prizes or awards are nationally or internationally recognized, the petitioner provides news articles pertaining to some of his awards in publications that have a limited reach. That a

[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.

periodical or newspaper provided coverage of a particular prize or award is insufficient to demonstrate the accolade is nationally or internationally recognized. The petitioner must also provide evidence to establish the periodical or newspaper has a national or international reach. Media coverage by newspapers specific to one location or region is insufficient to reflect the award is nationally or internationally recognized. For example, the petitioner submits competition results published in the that serves the Russian region of The evidence the petitioner provides reflects this publication has an annual circulation of copies. Such moderate circulation statistics, and a lack of other evidence that coverage in the publication is indicative of the award's national or international recognition, are not sufficient to establish that the petitioner's awards meet the plain language requirements of this criterion. Further, the petitioner did not submit evidence relating to other publications to demonstrate the competition results constitute national or international recognition of the prizes or awards.

As a result, the petitioner has not submitted evidence that meets the plain language 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.*

This criterion contains several evidentiary elements the petitioner must satisfy. First, the petitioner must demonstrate that he is a member of an association in his field. Second, the petitioner must demonstrate both of the following: (1) that the associations utilize nationally or internationally recognized experts to judge the achievements of prospective members to determine if the achievements are outstanding, and (2) that the associations use this outstanding determination as a condition of eligibility for prospective membership. It is insufficient for the association itself to determine if the achievements were outstanding, unless nationally or internationally recognized experts in the petitioner's field, who represent the association, render this determination. It is also insufficient for the petitioner to indicate that he was admitted to the association because of his outstanding achievements; the petitioner must show that the association requires outstanding achievements of all prospective members. The petitioner must satisfy all of these elements to meet the plain language requirements of this criterion.

The petitioner indicates he is eligible under this criterion based on his membership on the The director determined the petitioner met the requirements of this criterion. The AAO conducts appellate review on a *de novo* basis. *See Siddiqui v. Holder*, 670 F.3d 736, 741 (7th Cir. 2012); *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004); *Dor v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989). For the reasons outlined below, a review of the record of proceeding does not reflect that the petitioner submitted sufficient documentary evidence establishing that he meets the plain language of this criterion.

Initially, the petitioner submitted letters as evidence under this criterion. Several letters were not from individuals authorized to represent the The petitioner did submit an undated foreign language letter and a translation into English from

Deputy Minister of the only stated that the petitioner is a "Master of Sport" and that he "is a member of the in freestyle wrestling." does not provide an indication of the selection criteria to attain membership on this team, nor does he indicate that nationally or internationally recognized experts in the field determined that the petitioner's achievements were outstanding as an initial condition of membership.

In response to the RFE, the petitioner submitted an additional letter that he asserts is from the ' The authors of this letter are and another individual whose name is not clear from the bottom of the letter, but whose name appears on the letterhead as The petitioner supports the letter with information about and The evidence on record relating to these individuals, however, derives from *Wikipedia*, which is not a reliable source of information. *See Badasa,* 540 F.3d at 909. Further, the letter bears a seal in a foreign language; however it is not accompanied by a translation into English. Consequently, the petitioner has not demonstrated that this letter is from a person or entity authorized to speak on behalf of the Even if the petitioner demonstrated the letter was from authorized representatives of the the letter does not contain specific information relating to the membership requirements for this organization. We will not presume exclusive membership requirements from the general reputation of a given organization, as the organization's reputation may derive from factors independent of the exclusive nature of its membership. The letter reflects that the "criteria for membership . . . are demonstration of outstanding achievements in the field of wrestling as evidenced by at least several important awards won at major international competitions as well as demonstration of outstanding technical and athletic ability and potential for future achievement." The letter's authors did not specify how the organization defines outstanding achievements, or what it considers major international competitions. Nor did it reflect how the organization evaluates a prospective members' potential for future achievements. The letter also reflects that the team's rules and organizational documents are not being provided as they are not open to the public. The submitted evidence is insufficient to meet the plain language requirements of this criterion relating to the organization's selection criteria for prospective members.

Regarding the requirement that this organization utilizes nationally or internationally recognized experts to judge the achievements of prospective members, the letter only reflects the petitioner was recommended for membership by The letter does not specify that these individuals evaluated the petitioner's achievements and determined that his achievements were outstanding, nor does it specify that the organization relies on this determination as a condition of membership. The letter also indicates that the contains several Olympic and international wrestling champions. However, we will not presume that every member of this team has attained an equally high caliber as the named champions. The record does not reflect that the petitioner has competed in the Olympics or competitions of equal caliber and his awards at competitions outside of Russia were all at the junior level.

As the record does not contain the bylaws or other official documentation of the organization's membership criteria and the letter is conclusory, the petitioner has not established that his membership is a qualifying one. Thus, the petitioner has not established that he meets the requirements of 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.*

This criterion contains multiple 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. Professional or major trade publications are intended for experts in the field or in the industry. To qualify as major media, the publication should have significant national or international distribution and be published in a predominant national language. 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.F.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 provides several articles that we discuss below. The director determined that the petitioner did not meet the requirements of this criterion. The director concluded the evidence did not appear in the required publication types, or that the published material was not "totally" about the petitioner. While the published material must be about the petitioner and relating to his work, as noted by the petitioner on appeal, the regulation does not require that it be completely about the petitioner.

The magazine only mentions the petitioner in passing, and the article is related to workers' rights. Articles that are not about the petitioner do not meet this regulatory criterion. *See Noroozi v. Napolitano*, 905 F.Supp.2d 535, 545 (S.D.N.Y. 2012); *see also generally Negro-Plumpe v. Okin*, No. 2:07-CV-820-ECR-RJJ, 2008 WL 10697512, at *3 (D. Nev. Sept. 9, 2008) (upholding a finding that articles about a show or a character within a show are not about the performer).

The petitioner also submitted an article from titled, ' This article is one that the petitioner authored. As such, it is directly related to, and claimed under, the scholarly articles criterion at 8 C.F.R. § 204.5(h)(3)(vi). We will consider this article within the scholarly articles criterion below in this decision. Where evidence directly relates to one of the regulatory criteria, USCIS is not obligated to consider that same evidence under a second criterion. Significantly, section 203(b)(1)(A)(i) of the Act requires the submission of "extensive evidence." The regulation at 8 C.F.R. § 204.5(h)(3) requires that an alien meet at least three of the ten regulatory criteria. As a result, an article by the petitioner does not necessarily constitute evidence of published material that is about him and related to his work in the field. In this case, the petitioner's article is about wrestling in Russia, and is not about the

petitioner. Further, the petitioner has not demonstrated that is a professional publication or provided probative evidence demonstrating that this publication's circulation statistics are indicative of a major trade journal or other major media. The only evidence on record relating to this publication derives from *Wikipedia*, which we have already discussed as carrying no evidentiary weight within these proceedings.

Regarding the evidence from the the petitioner's name only appears in a list of other athletes reflecting one of his upcoming wrestling matches; this was not published material about the petitioner. Material that only lists, mentions, or indicates the petitioner's name, such as the posting of a player's competitions in a newspaper, does not constitute material that is about the petitioner relating to his work. Additionally, evidence the petitioner submitted in response to the director's RFE reflects this publication is a daily newspaper that covers local events serving Tennessee and the surrounding communities, with a circulation of 1,800 copies. If a publication is limited to regional or local circulation, it remains the petitioner's burden to explain how such a publication constitutes major media. On appeal, the petitioner asserts this is a qualified newspaper of general circulation. That a publication is qualified as a newspaper and that it has general circulation is not sufficient to demonstrate that it constitutes a form of major media. The petitioner also does not provide any indication that this is a professional or a major trade publication in accordance with the regulation.

The petitioner provided translations of an article from the titled, that lists the results of a tournament in which the petitioner participated. First, this is not published material about the petitioner and relating to his work in the field as it only reports the results of a competition. As previously noted, that the petitioner's name appears in published material is not evidence that meets the plain language requirements of this criterion. Regarding whether this newspaper constitutes one of the required publication types, the petitioner submitted information from the newspaper's website. As noted under the awards criterion, this information reflects that the has an annual circulation of The petitioner has not established the circulation data of other Russian newspapers, and he has consequently not established the is a form of major media. *See Noroozi*, 905 F.Supp.2d at 545. The petitioner also provided no information related to the distribution data of the to establish this published material has a national rather than a regional reach within Russia. Publications with only a regional reach are not generally considered to be major media and the petitioner has not established this publication is a professional or major trade publication as required by the regulation.

The petitioner also submitted other articles from and two websites, and but did not provide supporting evidence to demonstrate that these articles appeared in one of the required publication types. Further, regarding the material from the petitioner's name only appears in a list of wrestlers within this evidence. Regarding the posting of articles on the Internet, countless entities post at least some of their stories on the Internet. International accessibility by itself is not a realistic indicator of whether a given publication is "major media." We will not presume that the inclusion of articles on the Internet from this website will qualify as major media. Regardless, with respect to the material posted

at inclusion in a list of wrestlers is not material about the petitioner and relating to his work in the field.

Therefore, the petitioner has not submitted evidence that meets the plain language requirements of this criterion.

> *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.*

This criterion requires not only that the petitioner was selected to serve as a judge, but also that the petitioner is able to produce evidence that he actually participated as a judge. The phrase "a judge" implies a formal designation in a judging capacity, either on a panel or individually as specified at 8 C.F.R. § 204.5(h)(3)(iv). Additionally, these duties must have been directly judging the work of others in the same or an allied field in which the petitioner seeks an immigrant classification within the present petition. The petitioner must submit evidence satisfying all of these elements to meet the plain language requirements of this criterion.

The director determined that the petitioner established eligibility for this criterion. The plain language of this criterion requires evidence of the petitioner'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 AAO conducts appellate review on a *de novo* basis. *See Siddiqui v. Holder*, 670 F.3d at 741; *Soltane*, 381 F.3d at 145; *Dor*, 891 F.2d at 1002 n. 9. For the reasons outlined below, a review of the record of proceeding does not reflect that the petitioner submitted sufficient documentary evidence establishing that he meets the plain language of this criterion.

The petitioner provided a certificate reflecting he was awarded the title of judge of the first category in wrestling, and a translated letter from Minister of Sports Within his letter, indicates the petitioner "has judged the achievements of wrestlers competing in major international events." However, the record lacks evidence detailing what duties the petitioner performed as a judge. For example, the petitioner did not submit official competition rules showing that his activities in the tournaments constituted participation as a judge of the work of others. If the petitioner's duties involved simply enforcing the rules of a match and sportsmanlike competition, then his participation as a judge cannot be said to have involved evaluating or judging the skills or qualifications of the participants. Without further evidence that he judged the work of others, such as that he awarded points or chose the ultimate winner, evidence regarding officiating at a match is insufficient to meet this criterion.

Therefore, the petitioner has not submitted evidence that meets the plain language requirements of this criterion, and we withdraw the director's favorable determination as it relates to this criterion.

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

The plain language of this regulatory criterion contains multiple evidentiary elements that the petitioner must satisfy. The first is evidence of the petitioner's contributions in his field. These contributions must have already been realized rather than being potential, future contributions. The petitioner must also demonstrate that his contributions are original. The evidence must establish that the contributions are scientific, scholarly, artistic, athletic, or business-related in nature. The final requirement is that the contributions rise to the level of major significance in the field as a whole, rather than to a project or to an organization. The phrase "major significance" is not superfluous and, thus, it has some meaning. *Silverman v. Eastrich Multiple Investor Fund, L.P.*, 51 F. 3d 28, 31 (3rd Cir. 1995) *quoted in APWU v. Potter*, 343 F.3d 619, 626 (2nd Cir. Sep 15, 2003). Contributions of major significance connotes that the petitioner's work has significantly impacted the field. *See* 8 C.F.R. § 204.5(h)(3)(v); *see also Visinscaia* , 4 F. Supp. 3d at 135-136. The petitioner must submit evidence satisfying all of these elements to meet the plain language requirements of this criterion.

The director determined that the petitioner did not meet the requirements of this criterion. The petitioner indicates within the appeal that the expert letters alone on record should be sufficient to demonstrate his eligibility under this criterion. The petitioner also asserts that the regulation does not support the director's determination that while expert letters may be helpful, he should provide independent and objective evidence to establish he has satisfied this criterion's requirements. The petitioner states within the appellate brief that the regulation does not limit the types of evidence that may or may not be sufficient to meet this criterion. While this statement is correct, the final determination of whether the evidence meets the plain language requirements of a regulation lies with USCIS. *See Matter of Caron International*, 19 I&N Dec. 791, 795 (Comm'r 1988) (finding that the appropriate entity to determine eligibility is USCIS in a scenario whereby an advisory opinion or statement is not consistent with other information that is part of the record).

Further, the petitioner asserts the director erred by not specifying what types of evidence the petitioner should submit to be considered under this criterion. 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). The director's RFE provided general guidelines of what the evidence should demonstrate if the petitioner chose to submit additional evidence under this criterion and the petitioner is in the best position to know what evidence exists and is available. The petitioner continues to rely on the letters alone. We will consider the content of those letters below.

The first letter from a former collegiate wrestling champion, provides an extensive list of the petitioner's achievements in the sport, including his awards, and states that the petitioner's achievements constitute a contribution of major significance in the petitioner's field, and that the petitioner has developed his own uniquely effective wrestling style. Achievements in one's field, however, are not necessarily indicative of original contributions of major significance and awards fall under a separate criterion, discussed above. It is not enough to be skillful and knowledgeable and to

have others attest to those talents. The petitioner must have demonstrably impacted his field in order to meet this regulatory criterion. *See* 8 C.F.R. § 204.5(h)(3)(v); *see also Visinscaia*, 4 F. Supp. 3d at 134. does not offer any explanation of how the petitioner has made a demonstrable impact within his field of endeavor.

an Olympic wrestling medalist, athlete and coach, states the petitioner's fighting technique is original and superb. indicates the petitioner has made a contribution to his field "by virtue of his overall important victories and his original fighting technique." As stated above, awards fall under a separate criterion. Moreover, the petitioner's contributions must be not only original, but also of major significance. also asserts the petitioner's unique life story will inspire future generations of athletes. However, does not describe how the petitioner's fighting technique, or his victories have made a measurable and significant impact within the field. does not indicate the extent of the petitioner's influence on other wrestlers in the field, nor does he explain how the field has significantly changed as a result of the petitioner's fighting technique or as a result of his victories.

a former wrestler, offers the final expert letter. Although asserts that the petitioner's book "was in demand among professional coaches, due to innovative and effective training techniques," neither nor the petitioner offer specific sales or other distribution information supported by evidence of the sales or distribution statistics relating to his book. 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)). also implies that the petitioner's athletic achievements and his unique fighting style, serve as a source of athletic encouragement and inspiration for other athletes. USCIS need not accept primarily conclusory assertions. *1756, Inc.,* 745 F. Supp. at 15. does not provide specific examples of how the petitioner's work has significantly impacted the field at large or otherwise constitutes original contributions of major significance. Vague, solicited letters from colleagues that do not specifically identify contributions or provide specific examples of how those contributions influenced the field are insufficient. *Kazarian v. USCIS,* 580 F.3d 1030, 1036 (9th Cir. 2009) *aff'd in part* 596 F.3d 1115 (9th Cir. 2010). In 2010, the *Kazarian* court reiterated that the AAO's conclusion that "letters from physics professors attesting to [the alien's] contributions in the field" were insufficient was "consistent with the relevant regulatory language." 596 F.3d at 1122.

The petitioner also offers letters from his students within the RFE response. Although the student letters discuss a unique style the petitioner has shared with them, the petitioner does not offer evidence demonstrating that his teaching this technique to other athletes has made any impact within the field of wrestling beyond his individual students.

The Board of Immigration Appeals (BIA) has stated that testimony should not be disregarded simply because it is "self-serving." *See, e.g.*, *Matter of S-A-*, 22 I&N Dec. 1328, 1332 (BIA 2000) (citing *Matter of M-D-*, 21 I&N Dec. 1180 (BIA 1998); *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998); *Matter of Dass*, 20 I&N Dec. 120 (BIA 1989); see also *Matter of Acosta*, 19 I&N Dec. 211, 218 (BIA 1985)).

The Board clarified, however: "We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available." *Matter of S-A-*, 22 I&N Dec. at 1332. If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for the petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. at 1136.

The opinions of experts in the field are not without weight and have been considered above. While such letters can provide important details about the petitioner's skills, they cannot form the foundation of a successful extraordinary ability claim. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. *See Matter of Caron International*, 19 I&N Dec. at 795. However, USCIS is ultimately responsible for making the final determination regarding the 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 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" but rather is admissible only if it will assist the trier of fact to understand the evidence or to determine a fact in issue). USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795; *see also Matter of Soffici*, 22 I&N Dec. at 165. *See also Visinscaia*, 4 F.Supp.3d at 134-35 (concluding that USCIS' decision to give limited weight to uncorroborated assertions from practitioners in the field was not arbitrary and capricious). While letters authored in support of the petition have probative value, they are most persuasive when supported by evidence that already existed independently in the public sphere.

Consequently, the petitioner has not submitted evidence that meets this criterion's requirements.

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

This criterion contains multiple evidentiary elements the petitioner must satisfy through the submission of evidence. The first is that the petitioner is an author of scholarly articles in his field in which he intends to engage once admitted to the United States as a lawful permanent resident. Scholarly articles generally report on original research or experimentation, involve scholarly investigations, contain substantial footnotes or bibliographies, and are peer reviewed. Additionally, while not required, scholarly articles are oftentimes intended for and written for learned persons in the field who possess a profound knowledge of the field. The second element is that the scholarly articles appear in one of the following: a professional publication, a major trade publication, or in a form of major media. The petitioner must submit evidence satisfying each of these elements to meet the plain language requirements of this criterion.

The petitioner initially indicated he qualified for this criterion, but did not address the director's concerns in response to the director's RFE. The petitioner indicated his eligibility based on a book he authored as well as an article that appeared in The director determined that the petitioner did not meet the requirements of this criterion because the evidence did not demonstrate that the published material was scholarly in nature and due to a lack of evidence demonstrating the

published works appeared in one of the required publication types. On appeal, the petitioner only asserts that the evidence is scholarly in nature and that it appeared in one of the required publication types without providing any specific information to rebut the director's determination.

Initially, the petitioner asserts his book was published by a professional publisher in Russia, and that this publication was in demand among professional coaches. 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. The plain language of the regulation at 8 C.F.R. § 204.5(h)(3)(vi) requires "scholarly articles." Generally, books do not equate to articles. An article is "a nonfictional prose composition usually forming an independent part of a publication (as a magazine)."[3] On the other hand, a book is "a long written or printed literary composition."[4] Furthermore, the regulation requires that the articles be "in professional or major trade publications or other major media." Regardless, scholarly articles are generally written by and for experts in a particular field. As the translated portion of the petitioner's book only consists of the table of contents, the petitioner has not submitted sufficient evidence to establish that the book is intended for learned persons in his field. Even if the petitioner's book equates to a scholarly article, the petitioner did not submit any documentary evidence to establish that his book is a professional or major trade publication or other major media. It is notable that the translation of the table of contents reflects the print run consisted of 150 copies of the book and the record does not establish how many copies the publisher actually sold. The petitioner has not established that such a small number of copies constitutes major media.

Regarding the petitioner's article in [redacted] the petitioner has not provided probative evidence demonstrating that this publication's circulation statistics are high compared to other circulation statistics. The only evidence on record relating to this publication derives from *Wikipedia*, which we have already discussed as carrying no evidentiary weight within these proceedings. Moreover, the article reports on the practices used in [redacted] Russia, based on the petitioner's personal experiences training there. The petitioner has not established that this article is either aimed at experts or that scholars have taken an interest in his article.

Based on the foregoing, the petitioner has not submitted evidence that meets the plain language requirements of this criterion.

C. 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.

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[3] *See* http://www.merriam-webster.com/dictionary/article, accessed on May 19, 2015, and incorporated into the record of proceeding.

[4] *See* http://www.merriam-webster.com/dictionary/book?show=0&t=1311785044, accessed on May 19, 2015, and incorporated into the record of proceeding.

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 has 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.[5]

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. at 128. Here, the petitioner has not met that burden.

ORDER: The appeal is dismissed.

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[5] 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).