U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

MATTER OF A-G-

DATE: OCT. 26, 2015

APPEAL OF TEXAS SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a pathologist, seeks classification as an individual "of extraordinary ability" in the sciences. *See* Immigration and Nationality Act (the Act) § 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). The Director, Texas Service Center, denied the petition. The matter is now before us on appeal. The appeal will be dismissed.

The classification the Petitioner seeks makes visas available to foreign nationals 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 evidentiary requirements set forth at 8 C.F.R § 204.5(h)(3), which requires a one-time achievement or satisfaction of at least three of the ten regulatory criteria. The Director also found that the totality of the evidence in the record does not establish that the Petitioner was eligible for the exclusive classification.

On appeal, the Petitioner submits a brief, in which the Petitioner only discusses the Director's finding as relating to the contributions of major significance criterion at 8 C.F.R. § 204.5(h)(3)(v). For the reasons discussed below, the Petitioner has not established her eligibility for the classification sought.

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.

The term "extraordinary ability" refers only to those individuals in that small percentage who has 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 sustained acclaim and the recognition of her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this documentation, then she must provide sufficient qualifying evidence that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x).

Satisfaction of 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 documentation is first counted and then, if fulfilling 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 U.S. Citizenship and Immigration Services' (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. Evidentiary Criteria[1]

Under the regulation at 8 C.F.R. § 204.5(h)(3), the Petitioner, as initial evidence, may present a one-time achievement that is a major, internationally recognized award. In this case, the Petitioner has not asserted or shown that she is the recipient of a major, internationally recognized award at a level similar to that of the Nobel Prize. As such, the Petitioner must satisfy at least three of the ten types of documentation under the regulations at 8 C.F.R. § 204.5(h)(3)(i)-(x) to meet the basic eligibility requirements. The Director concluded that the Petitioner did not meet the awards criterion at 8 C.F.R § 204.5(h)(3)(i), the membership criterion at 8 C.F.R § 204.5(h)(3)(ii), the leading or critical role criterion at 8 C.F.R § 204.5(h)(3)(viii), and the high salary criterion at 8 C.F.R § 204.5(h)(3)(ix). The Petitioner does not further address any of these criteria on appeal. Accordingly, the Petitioner

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

has abandoned these criteria as she did not timely raise them on appeal. *Sepulveda v. United States 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. 30, 2011) (the United States District Court found the plaintiff's claims to be abandoned as he failed to raise them on appeal). The record supports the Director's findings pertaining to these criteria. Specifically, the Petitioner did not provide evidence that her awards are nationally or internationally recognized; that the associations of which she is a member require outstanding achievements of their members; of published material about her in professional or major trade publications, or other major media; that the role of pathologist is leading or critical to the institutions where the Petitioner has worked; or that the Petitioner's salary is above the middle half of the field.

> *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 Director concluded that the Petitioner met this criterion. The record supports this conclusion. The Petitioner submitted evidence showing that she served as a peer reviewer for the professional publications and Accordingly, the Petitioner has met this 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 had not established her eligibility for this regulatory criterion. On appeal, the Petitioner asserts that she meets this criterion because other scientists have relied on her research and studies in their own work as documented in her reference letters, her work has been published in medical journals, and she has presented her work at conferences. To meet this criterion, the Petitioner's contributions must be both original and of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v). The term "original" and the phrase "major significance" are not superfluous and, thus, they have some meaning. *Silverman v. Eastrich Multiple Investor Fund, L.P.*, 51 F. 3d 28, 31 (3d Cir. 1995) (quoted in *APWU v. Potter*, 343 F.3d 619, 626 (2d Cir. 2003)). The Petitioner's contributions must be original, such that she is the first person or one of the first people to have done the research in the field, and must show that her contributions are of major significance in the field, such that her research significantly advanced the field as a whole. Regardless of the field, the plain language of the phrase "contributions of major significance in the field" requires evidence of an impact beyond one's employer and clients or customers. *See Visinscaia*, 4 F. Supp. 3d at 134-36 (upholding a finding that a ballroom dancer had not met this criterion because she did not demonstrate her impact in the field as a whole).

In this case, the record does not support a finding that the Petitioner has made original contributions of major significance in the field. First, the reference letters in the record do not establish that the Petitioner has met this criterion. The initial submission included a number of reference letters, including, but not limited to, letters from Professor of Pathology, the Associate Residency Program Director, Anatomic and Clinical Pathology,

Associate Professor, Director of Cytopathology, Professor of Pathology and Medicine, and Director, Cytopathology and Cytometry,

In response to the Director's request for evidence (RFE), the Petitioner submitted additional letters from some of the authors listed above as well as new references. These letters, including ones not specifically mentioned, praised the Petitioner's qualifications, abilities, educational, and professional accomplishments as a pathologist. On appeal, the Petitioner asserts that her contributions are of major significance in the field because the letters "attest[ed] to physicians applying and emulating [the Petitioner's] research." Although the letters indicated that other physicians and scientists have applied or relied on the Petitioner's research and studies, the letters do not provide any specific information on how the physicians or scientists have applied or relied on the Petitioner's work or details on how the Petitioner's work has impacted the physicians or scientists' own practice or research.

For example, the record contains a January 3, 2011, letter from Assistant Professor of Pathology, in which she confirmed that she has "applied" the Petitioner's research to her own practice and is "aware that many of [her] colleagues do so as well." In his December 21, 2010, letter, Associate Professor of Pathology and Laboratory Medicine, Program Director, Pathology Residency Training Program, affirmed that the Petitioner's findings have "affected" own practice. Assistant Professor, Department of Hematopathology, explained that he has "utilized" the Petitioner's research in his own practice and he is "certain that fellow physicians have as well." In a December 21, 2010, letter, asserted that the Petitioner's research "is relied upon by countless physicians." According to a December 16, 2010, letter from Professor of Pathology, Director, he has "appl[ied]" the results of the Petitioner's research to his own practice and his colleagues have also done so. Professor and Distinguished Chair in Pathology and Laboratory Medicine, Distinguished Teaching Professor, stated that the Petitioner's research on breast cancers has "influenced [his] own practice, and [he is] certain that it has impacted the practices of [his] fellow physicians as well." In a December 22, 2010, letter, Director, noted that she "will be referring to the [Petitioner's] work in own practice."

These letters stated in a conclusory manner, that physicians and scientists in the field have "applied," "utilized" or "will be referring to" the Petitioner's work or that the Petitioner's research and studies have "affected" or "influenced" their practice. The letters, however, did not explain or provide sufficient details or specific information on how the physicians or scientists have applied, utilized or referred to the Petitioner's work or how the Petitioner's work has impacted their practice or the field as a whole. Going on record without supporting documentary evidence is not sufficient for the purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Assoc. Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l

Comm'r 1972)). USCIS need not accept primarily conclusory assertions. *See 1756, Inc. v. United States Att'y Gen.*, 745 F. Supp. 9, 17 (D.C. Dist. 1990).

Second, not all contributions in a field constitute "contributions of major significance." The evidence in the record reflects that the Petitioner's work has contributed to the general pool of knowledge. For example, stated that the Petitioner's work in breast cancer arising in patients with Hodgkin lymphoma "has brought new understanding to the treatment and diagnosis of this group of radiation-associated cancers." This type of contribution, which shows that the Petitioner's work has added to the general pool of knowledge in the field, without more, is insufficient to demonstrate that the Petitioner's work has significantly advance the field as a whole, such that the Petitioner's work could be considered as "contributions of major significance in the field." did not identify a specific treatment or diagnosis technique or explain how it has improved clinical practice. As the Director noted, "incremental improvements in knowledge and understanding," which are "expected from valid original research," are insufficient to show contributions of major significance in the field.

Third, to meet this criterion, the Petitioner must demonstrate that her research and studies have already significantly impacted the field. *See Visinscaia*, 4 F. Supp. 3d at 134-36. The Petitioner submitted a number of reference letters that discussed the potential or possible future impact of the Petitioner's work. For example, according to a December 27, 2010, letter from Director of Cytopathology, Professor of Pathology, the Petitioner's study on the telecytology of fine needle aspiration "will have a direct effect on patient care as it shows how these procedures can be performed in remote sites, not having resident cytology interpretive expertise." further stated that the petitioner's work "will directly lead to improvement in patient care." In his letter, Associate Professor, Pathology and Radiology, affirmed that the Petitioner's work on BRAF mutation analysis on thyroid fine needle aspirations "will have a tremendous impact on patient care by significantly decreasing the number of thyroid nodules with indeterminate cytology and preventing unnecessary thyroid surgeries." further explained that the Petitioner's work on CpG island methylation profiling "will help in determining the prognosis and management" of patients before the surgical removal of their tumors. Evidence relating to the potential impact of the Petitioner's work is insufficient to satisfy this criterion, which requires an existing significant impact of the Petitioner's work.

Fourth, authorship of scientific materials and conference presentations, without a showing that the Petitioner's work has impacted the field at a level consistent with a finding of contributions of major significance in the field, does not establish that the Petitioner has met this criterion. The regulations contain a separate criterion regarding the authorship of published articles, 8 C.F.R. § 204.5(h)(3)(vi), which we discuss below. As such, the regulation views contributions as a separate evidentiary requirement from scholarly articles. Publication and presentations, which show dissemination of the Petitioner's work, are not sufficient under 8 C.F.R. § 204.5(h)(3)(v) absent evidence that they are of "major significance" in the field. *Kazarian v. USCIS*, 580 F.3d 1030, 1036 (9th Cir. 2009), *aff'd in*

part, 596 F.3d 1115 (9th Cir. 2010). In *Kazarian*, the court reaffirmed its holding that our adverse finding under this criterion was not an abuse of discretion. 596 F.3d at 1122. Typically, in considering whether a published article or presentation is a contribution of major significance, we look at the impact of the material after dissemination. In this case, the Petitioner has not demonstrated the impact of her publications and presentations is at a level consistent with a finding of "contributions of major significance" in the field. Moreover, unpublished manuscripts, such as the one the Petitioner identified as a pending book chapter, are not documentation of eligibility as of the date of filing. *See* 8 C.F.R. § 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971).

According to a December 28, 2010, letter from FRCPC, FCAP, FASCP, the Petitioner presented her research at the and annual meetings and at the 2010 The record contains invitations from the meetings themselves. In a December 17, 2010, letter, Associate Professor of Pathology, Director, Breast Pathology Subspecialty Service, confirmed that the Petitioner's presentations at the conferences were "well-received" and "received enthusiastically." stated that the Petitioner's presentations "generated much enthusiastic discussion." The record further shows that subsequent to the Petitioner's presentations, scientific journals published abstracts of her work. Although the evidence, including reference letters, establishes that the Petitioner's work received positive reviews and reception, neither the letters nor other material reflects that the Petitioner's presentations or publications impacted the field as a whole at a level consistent with a finding of "contributions of major significance." The Petitioner has not sufficiently documented that her work significantly advanced the field as a whole after its dissemination.

Moreover, although the Petitioner provided the impact factors and the competitive selection process of the journals that have published her work, such information is insufficient to demonstrate the impact of the Petitioner's work after its publication; rather it relates to the impact of a particular journal. The Petitioner has not documented that the impact of each article published in the journal is the same as the impact of the journal as a whole. In addition, the Petitioner has not submitted evidence confirming that her written work has been cited in scholarly articles by other physicians or medical researchers, which is one means of showing the level of impact that the Petitioner's work has had in the field as a whole.

Vague, solicited letters from colleagues that do not specifically identify contributions or provide specific examples of how those contributions influenced the field are insufficient.[2] *Kazarian*, 580 F.3d at 1036. The opinions of experts in the field are not without weight and have been considered above. USCIS may, in its discretion, use as advisory opinions statements submitted as

---

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

expert testimony. *See Matter of Caron Int'l*, 19 I&N Dec. 791, 795 (Comm'r 1988). However, USCIS is ultimately responsible for making the final determination regarding eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may, as this decision has done above, evaluate the content of those letters as to whether they support the eligibility. *See id.* at 795; *see also Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact"). USCIS may even give less weight to an opinion that is not corroborated, in accord with other information or is in any way questionable. *Id.* at 795; *see also Soffici*, 22 I&N Dec. at 165 (citing *Treasure Craft of California*, 14 I&N Dec. at 190; *Visinscaia*, 4 F. Supp. 3d at 134-35 (upholding our decision to give minimal weight to vague, solicited letters from colleagues or associates that do not provide details on contributions of major significance in the field). Accordingly, the Petitioner has not documented her original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. The Petitioner has not met this criterion. *See* 8 C.F.R. § 204.5(h)(3)(v).

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

The Director concluded that the Petitioner met this criterion. The record supports this conclusion. The Petitioner submitted evidence showing that [redacted] published one of her scholarly articles, and a number of scientific journals, which constitute professional publications, published abstracts of the Petitioner's work. Accordingly, the Petitioner has met this criterion.

B. Comparable Evidence

> *If the above standards do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence to establish the beneficiary's eligibility.*

In her response to the Director's RFE, the Petitioner asserted that her "work at medical conferences is comparable to display of [her] work [in] the field at artistic exhibitions or showcases." *See* 8 C.F.R. § 204.5(h)(3)(vii). On appeal, the Petitioner has not continued to address comparable evidence. Accordingly, the Petitioner has abandoned this issue, as she did not timely raise it on appeal. *Sepulveda*, 401 F.3d at 1228 n.2; *Hristov*, 2011 WL 4711885 at *9. Regardless, the Petitioner has not established that her presentations are comparable evidence of displays at artistic exhibitions or showcases.

The regulation at 8 C.F.R. § 204.5(h)(4) allows for the submission of "comparable evidence" if the standards at 8 C.F.R § 204.5(h)(3) "do not readily apply to the beneficiary's occupation." Thus, it is the Petitioner's burden to demonstrate why the certain regulatory criteria at 8 C.F.R. § 204.5(h)(3) are not readily applicable to her occupation as a pathologist and how the submission is "comparable" to the specific objective items required under the display at artistic exhibitions or showcases criterion. *See* 8 C.F.R. § 204.5(h)(3)(vii). In this case, the Petitioner's conference presentations are relevant to the categories of documentation at 8 C.F.R. § 204.5(h)(3)(v) and (vi), and have been properly considered under those two regulatory criteria. An inability to satisfy the plain language

requirements of at least three categories at 8 C.F.R. § 204.5(h)(3), is not, by itself, a sufficient basis for relying on comparable evidence. Even assuming that certain criteria do not readily apply to the Petitioner's occupation, she has not explained how scholarly lectures that disseminate scientific findings in the same manner as scholarly articles are comparable to displays of artistic work at artistic exhibitions and showcases. Considering such presentations as both scholarly articles and comparable evidence of artistic displays would undermine the regulatory requirement that a petitioner satisfied three separate criteria and the statutory requirement for extensive evidence. 8 C.F.R. § 204.5(h)(3); section 203(b)(1)(A)(i) of the Act. *See Kazarian*, 596 F.3d at 1122 (upholding the AAO's conclusion that scientific presentations and lectures are not relevant under the display criterion).

C. Final Merits Determination

The Petitioner has met two criteria, having participated as a judge and authored scholarly articles. 8 C.F.R § 204.5(h)(3)(iv), (vi). Notwithstanding this finding, given that the Director conducted a final merits determination, we will conduct a final merits determination as well. All the evidence in the record is considered in the context of whether or not the Petitioner has demonstrated: (1) her "level of expertise indicating that [she] is one of [a] small percentage who have risen to the very top of the field of endeavor," and (2) that she "has sustained national or international acclaim and that . . . her achievements have been recognized in the field of expertise." 8 C.F.R. §§ 204.5(h)(2), (3); Section 203(b)(1)(A) of the Act; *see also Kazarian*, 596 F.3d at 1119-20. For the reasons discussed below, the Petitioner has not made such a showing. Accordingly, the appeal is dismissed.

With regard to the prizes or awards criterion under the regulation at 8 C.F.R. § 204.5(h)(3)(i), the Director concluded that the Petitioner had not met this criterion. Specifically, the Director stated that the Petitioner did not provide sufficient documentation showing that her receipt of certain medical positions, fellowship opportunities and travel grants constituted her receipt of nationally or internationally recognized awards or prizes. The Director found that the Petitioner's awards and grants were "early career awards" and "student awards" that lacked national or international recognition. On appeal, the Petitioner has not submitted additional exhibits in support of this criterion or specifically challenged the Director's finding. The record lack sufficient independent evidence, such as, but not limited to, independent journalistic coverage of the Petitioner's receipt of the awards or grants in nationally or internationally circulated publications, which might reflect the reputation or prestige of the awards or grants. Accordingly, not only has the Petitioner not established that her awards are nationally or internationally recognized, she has not demonstrated that they are indicative of or consistent with national or international acclaim.

With respect to the membership of associations criterion under the regulation at 8 C.F.R. § 204.5(h)(3)(ii), the Director concluded that the Petitioner had not met this criterion. Specifically, the Director stated that the Petitioner did not provide sufficient documentation showing that her membership in the American Medical Association, the and constituted membership in associations that required outstanding achievements from their members, as judged by nationally or internationally recognized experts. The Director found that

although the Petitioner had offered membership requirements for the associations, they did not require "outstanding achievements" from their members. The Director concluded that "employment or activity in a given field; minimum education, experience or achievement; recommendations by colleagues or current members or payment of dues" were insufficient to confirm that the associations required "outstanding achievements from their members." On appeal, the Petitioner has not submitted additional exhibits in support of this criterion or specifically challenged the Director's finding. The record lacks evidence that the Petitioner's memberships are qualifying under 8 C.F.R § 204.5(h)(3)(ii) or otherwise indicative of national or international acclaim.

The Petitioner never expressly asserted that she met the regulation at 8 C.F.R. § 204.5(h)(3)(iii) pertaining to published material about herself. Nevertheless, the Director considered certain items that appeared to relate to this criterion and concluded that the Petitioner had not met the regulatory requirements. Specifically, the Director stated that the Petitioner's physician certificate, Who's Who certificates, listing on certain Websites and email correspondence, did not demonstrate that she met this criterion. Specifically, the Petitioner did not include documentation that the organizations, entities or individuals who issued the certificates or listed the Petitioner's name constituted professional or major trade publications or other major media. In addition, the Petitioner did not provide that a certificate or a listing of her name constituted published material about her relating to her work. As the Director noted, the "criterion requires published material that is primarily about [the Petitioner's] work, and simply listing [her] name on a certificate or website" or email correspondence was insufficient. On appeal, the Petitioner has not submitted additional evidence in support of this criterion or specifically challenged the Director's finding. As the Petitioner has not explained the significance of this material, she has not shown that it is indicative of or consistent with national or international acclaim.

Although the Petitioner meets the participation as a judge criterion at 8 C.F.R § 204.5(h)(3)(iv), she has not shown that the qualifying evidence is reflective of sustained national or international acclaim. *See* section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. The *Kazarian* court recognized that exhibits satisfying a given criterion may be evaluated as to whether they are reflective of national or international acclaim in the final merits determination. The Petitioner documented that she has been a peer reviewer for a few scientific journals and that she has reviewed a limited number of articles for publication. Scientific journals are peer reviewed and rely on many medical researchers and scientists to review submitted articles. The Petitioner did not offer any evidence setting her peer review opportunities apart from others in the field, such as credit for serving on an editorial board. Moreover, although the Petitioner suggested that, as a chief resident, she supervised and monitored other medical residents, she did not show that her duties included supervising or monitoring physicians or scientists who were experienced in the field. The Petitioner also did not demonstrate how this responsibility at one hospital reflects her reputation outside that institution. The Petitioner's limited experience as a peer reviewer and her supervision of early-career physicians and scientists where she is employed are not indicative of her sustained national or international acclaim. Finally, her student evaluations of her professors do not set her apart from all other students in those classes.

With respect to the contributions of major significance criterion under the regulation at 8 C.F.R § 204.5(h)(3)(v), as discussed above, the Petitioner has not satisfied this criterion. Specifically, although the Petitioner submitted a number of reference letters noting her educational and professional accomplishments, neither the letters nor any other material in the record sufficiently explain how her work constitutes "contributions of major significance in the field," such that her work significantly advanced the field as a whole. Rather, the evidence confirms that the Petitioner's research and studies have contributed to the general pool of knowledge. The record also lacks exhibits showing that the Petitioner's written work and presentations have garnered a high level of citation or reference. As the Director noted, "incremental improvements in knowledge and understanding [which are] expected from valid original research" are insufficient to demonstrate that the Petitioner has sustained national or international acclaim.

Although the Petitioner has authored scholarly articles and, as such, meets the regulatory criterion at 8 C.F.R § 204.5(h)(3)(vi), this evidence does not reflect her sustained national or international acclaim. *See* section 203(b)(1)(A) of the Act; 8 C.F.R. §§ 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20. Professional publications, specifically scientific journals, have published one of her articles, a letter to an editor, and a number of abstracts. The Petitioner's only published article, entitled published in , consisted of four paragraphs. The Petitioner's letter to editor of the consisted of three paragraphs. The remaining published work included abstracts, not full scholarly articles. The Petitioner has shown that she has limited experience in authoring scholarly articles that are published in professional or major trade publications or major media. Her limited authorship experience is not indicative of her sustained national or international acclaim.

With respect to the Petitioner's presentations, which she characterized as comparable evidence of the display of her work at artistic exhibitions or showcases, the Director concluded that the Petitioner had not met this criterion. On appeal, the Petitioner has not submitted additional exhibits in support of this criterion or specifically challenged the Director's finding. Even if we accept her poster and platform presentations at scientific conferences as qualifying comparable evidence, the record does not show that presenting one's work at conferences is indicative of national or international acclaim. Rather, as with the Petitioner's scholarly articles, we look at the impact of the work after dissemination at the conference. The record does not confirm that the Petitioner's presentations have been notably influential in the field. For example, the Petitioner did not provide evidence of citations to or trade media coverage of her presentations.

The Director concluded that the Petitioner had not met the leading and critical role criterion under the regulation at 8 C.F.R. § 204.5(h)(3)(viii). On appeal, the Petitioner has not submitted additional evidence in support of this criterion or specifically challenged the Director's finding. Even assuming the Petitioner performed a leading or critical role for a certain research or studies, the plain language of the criterion requires a showing that the Petitioner performed a leading or critical role for organizations or establishments, as a whole, that have a distinguished reputation. Regardless, in the final merits analysis, we consider whether the documentation reflects national or international

acclaim and status within the small percentage at the top of the field. The Petitioner completed her fellowship and at the time of filing was working as an associate staff pathologist. The Petitioner's references listed their fellowships and residencies as training on their curriculum vitae. While affirms that the Petitioner was "named Chief Resident" at the included her own Chief Resident position under "Postgraduate Training" on her curriculum vitae. The Petitioner has not demonstrated that her training experience and entry level position as an associate staff pathologist are indicative of her national or international acclaim.

With respect to the high salary or other significantly high remuneration criterion under the regulation at 8 C.F.R. § 204.5(h)(3)(ix), the Director concluded that the Petitioner had not met this criterion. Specifically, the Director noted that the Petitioner's salary was not much higher than the average salary of a pathologist in 2009 or the amount that the middle half of medical pathologists earned as of March 2011. On appeal, the Petitioner has not submitted additional evidence in support of this criterion or specifically challenged the Director's finding. In addition to not meeting the criterion's requirements, the Petitioner has not shown that her salary is indicative of or consistent with national or international acclaim.

The record confirms that the Petitioner is an who has been educated in India and in the United States, worked for a number of medical institutions in the United States and was involved in a number of medical research studies. The record also includes reference letters praising the Petitioner's skills, abilities and educational and professional accomplishments. The Petitioner is respected by her colleagues; has performed, published, and presented case studies and other research; is active in her field as a reviewer and member of professional associations; and has excelled in her training and entry-level positions. Ultimately, however, the record does not support the Petitioner's eligibility for the petition. Specifically, even in the aggregate, the evidence does not distinguish the Petitioner as one of the small percentage who have risen to the very top of the field.

D. Summary

Based on the record, and for the reasons discussed above, we agree with the Director that the Petitioner has not submitted the requisite initial evidence, in this case, documentation that satisfies at least three of the ten regulatory criteria. In addition, having considered all the material in the record, including information not specifically mentioned above, we conclude that the Petitioner has not shown her eligibility for the exclusive classification.

III. CONCLUSION

The documentation submitted in support of a claim of extraordinary ability must demonstrate that the foreign national has achieved sustained national or international acclaim and is one of the small percentage who have risen to the very top of her field of endeavor.

[3] is not affiliated with that institution and did not explain his firsthand knowledge of that appointment.

A review of the record in the aggregate, however, does not establish that the Petitioner has distinguished herself to such an extent that she may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of the field. The evidence is not persuasive that the Petitioner's achievements set her significantly above almost all others in her field at a national or international level. Therefore, the Petitioner has not demonstrated her eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

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 a 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, the Petitioner has not met that burden.

ORDER: The appeal is dismissed.

Cite as *Matter of A-G-*, ID# 14021 (AAO Oct. 26, 2015)