U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 6735751

Date: JUNE 2, 2020

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner, an entrepreneur in the field of business, seeks classification as an alien of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those 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 of the Texas Service Center denied the petition, concluding that the Petitioner did not satisfy any of the initial evidentiary criteria, of which he must meet at least three. The Director further found that the Petitioner did not establish that he would continue work in his area of expertise in the United States.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability 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,
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> (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
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> (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 have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The implementing 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 his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010).

II. ANALYSIS

The Petitioner claims to be an entrepreneur of extraordinary ability in business, having managed and directed companies in various fields. The records of U.S. Citizenship and Immigration Services (USCIS) indicate that in 2017 the Petitioner was granted E-2 nonimmigrant status and that he has been employed as the president of [redacted] a U.S. franchise of [redacted] a Brazilian beauty supply and beauty school company incorporated in Florida in 2010. The record also shows that in Brazil, the Petitioner has been employed as the owner of a logistics company, [redacted], a business offering services for ton logistics and mooring vessels, as well as warehousing, ship loading and unloading, and has performed port logistics services related to the oil industry at [redacted] and [redacted]. Because the Petitioner has not indicated or established that he has received a major, internationally recognized award, he must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

In denying the petition, the Director determined that the Petitioner did not fulfill any of the initial evidentiary criteria. On appeal, the Petitioner submits a brief claiming to meet eight criteria, relating to lesser nationally or internationally recognized awards, membership in associations, published materials in major media, judging the work of others, original business contributions of major significance, artistic display, leading or critical role, and high salary.[1] After reviewing all of the evidence, we conclude that the record does not support a finding that the Petitioner satisfies the requirements of at least three criteria.

> *Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.* 8 C.F.R. § 204.5(h)(3)(i).

The Petitioner argues that he meets this criterion based upon an award received by [redacted] and a claimed award received by the [redacted] In order to fulfill this criterion, the Petitioner must demonstrate that he received the prizes or awards, and they are nationally or

[1] We note that the Director determined that the Petitioner initially submitted evidence related to an additional criterion, commercial success in the performing arts at 8 C.F.R. § 204.5(h)(3)(x), but did not satisfy this criterion. The Petitioner does not contest this issue on appeal and therefore we deem it to be waived. *See, e.g., Matter of M-A-S-*, 24 I&N Dec. 762, 767 n.2 (BIA 2009).

internationally recognized for excellence in the field of endeavor.[2] Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field include, but are not limited to, the criteria used to grant the prizes or awards, the national or international significance of the prizes or awards in the field, and the number of awardees or prize recipients as well as any limitations on competitors.[3]

The Petitioner provided evidence regarding [redacted]'s receipt of a recognition award plaque in 2015 from [redacted] for "the success and important receipt of the 8 PLETs, [redacted]." We note that the English translation of the award is not accompanied by the required certification from the translator.[4] The Petitioner also submitted a letter dated 2019 from [redacted] confirming that the Petitioner acted as "Contract and Project Manager" for [redacted] involving "the delivery of a [redacted] project within [redacted]), from January through June 2015." He asserts that for the project the Petitioner "played a key role for the delivery of the scope of 8 [redacted] Pipeline End Terminations (PLETs)," and indicates that the Petitioner's contribution of "delivery of the equipment on time, on budget and without incidents . . . has been endorsed by a recognition award." The Petitioner additionally provided an article from www.forbes.com, indicating that [redacted] is the second-largest oil and gas company on the [redacted] 2017 list. Further, the Petitioner provided a May 2017 letter from [redacted], operational manager of [redacted], indicating that the award regarding work on "the [redacted]" is "one of the largest international oil & gas industry awards to date." However, the record does not contain, nor does the Petitioner reference, any corroborating evidence to support [redacted]'s claims.

Regarding the [redacted] award, we agree with the Director that it was awarded to [redacted], not to the Petitioner himself. According to the plain language of this criterion, the evidence must establish that an individual petitioner is the actual recipient of the prizes or the awards.[5] On appeal, the Petitioner, through counsel, emphasizes that "despite the [redacted] award bearing only the name of the Petitioner's Company [redacted]" his work was integral to the receipt of the award and the award should be credited to him. While the Petitioner submitted a letter from the awarding entity, explaining how he "played a key role" in [redacted]s receipt of the [redacted] recognition award, it remains that he is not the recipient of the award. In addition, this letter from the awarding entity was written years after the award was granted to [redacted] and it does not indicate that the awarding entity's intent was to recognize the Petitioner individually for his work. The Petitioner did not, for example, provide evidence that he received any individual recognition from [redacted] contemporaneous with the granting of the company award to [redacted]. In addition, the Petitioner did not establish that [redacted]'s [redacted] award is a nationally or internationally recognized prize or award for excellence. While the award

[2] *See* USCIS Policy Memorandum PM 602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14* 6 (Dec. 22, 2010), https://www.uscis.gov/policymanual/HTML/PolicyManual.html.

[3] *Id.*

[4] Any document in a foreign language must be accompanied by a full English language translation. 8 C.F.R. § 103.2(b)(3). The translator must certify that the English language translation is complete and accurate, and that the translator is competent to translate from the foreign language into English. *Id.* The foreign language on the award plaque is in Portuguese, however, the certification indicates that the translator "is qualified to translate documents from Italian to English."

[5] *See* USCIS Policy Memorandum PM-602-0005.1, *supra* at 6 (stating that for this criterion, the focus should be on an individual's receipt of the awards or prizes, as opposed to his or her employer's receipt of the awards or prizes).

plaque indicates it was in recognition of [redacted]'s performance on [redacted] project, and [redacted] is undoubtedly a large oil and gas company, the record does not contain evidence establishing that the award is recognized nationally or internationally for excellence in the field beyond the awarding entity.

The Petitioner also claims to satisfy this criterion based upon [redacted]s claimed receipt of the 2008 "Best Port" award. He provided a letter dated January 9, 2019, from [redacted] director of the [redacted] port authority, [redacted], who asserts that [redacted] "was awarded one of the best ports in Brazil in 2008" and that "[t]he methods for achieving such excellence included the participation of [the Petitioner] as managing director of [redacted]." The Petitioner also submitted a translated excerpt of an article dated 2008 from www.exam.com.br, indicating that [redacted] achieved a rating of "good," based upon "[a] survey with 200 executives from user companies completed in January by the [redacted], linked to the postgraduate nucleus of the [redacted] University [redacted] . . ." However, the Petitioner did not establish that he himself, as opposed to his employer, received this recognition. While the Petitioner submitted a letter from port authority management explaining how he was instrumental to the port's receipt of that recognition, it remains that he was not the recipient of this recognition.

In addition, the record does not establish that the recognition the port received from [redacted] is a "nationally or internationally recognized prize or award" as required by the plain language of the regulation this criterion. In response to the Director's request for evidence such as a photograph of the award or copy of the award certificate, the Petitioner did not provide evidence that he received an award or prize from [redacted]. Further, although the Petitioner provided evidence that [redacted] recognized the Petitioner's employer based on an academic survey of port users, the record does not demonstrate the national or international significance of that recognition. On appeal, the Petitioner emphasizes that "the ratings were granted upon evaluating the Eighteen (18) main ports in the entire country of Brazil." The fact that the survey rated ports on a national basis, however, does not establish that the rating itself has a reputation as a nationally or internationally recognized award for excellence.

In light of the above, the Petitioner has not satisfied the requirements of this criterion.

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

The Petitioner asserts eligibility for this criterion based on membership with the [redacted] and [redacted], the leasing company for [redacted] of [redacted] in the [redacted], Brazil [redacted]. In order to satisfy this criterion, the Petitioner must show that membership in the association is based on being judged by recognized national or international experts as having outstanding achievements in the field for which classification is sought.[6] In denying

[6] *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 6 (providing an example of admission to membership in the National Academy of Sciences as a Foreign Associate that requires individuals to be nominated by an academy member, and membership is ultimately granted based upon recognition of the individual's distinguished achievements in original research).

the petition, the Director found that the Petitioner did not submit evidence that the association requires outstanding achievements of its members, as judged by recognized national or international experts.

The Petitioner indicated membership with [redacted] and provided the aforementioned letter from [redacted] confirming the Petitioner's membership in [redacted] According to [redacted], [redacted] "require[s] excellence of our members" and the Petitioner is an entrepreneur of "outstanding achievements" in the port market, "especially in logistical support for offshore oil and gas exploration and production activities." He summarizes some of the Petitioner's accomplishments as managing director for [redacted] in 2005, including the "simultaneous operations of intercontinental cargo ships and supply boats in oil and gas activities within the same port." On appeal, the Petitioner asserts that [redacted]'s letter "demonstrates that not just any professional within the industry may satisfy the standards for the Council's membership."[7] The record also contains a copy of the Petitioner's 2006/2007 badge for access to [redacted] issued by [redacted].

Regarding the Petitioner's indicated membership in [redacted] he submitted a letter from [redacted] president, who states that the Petitioner became director of [redacted] upon referral by [redacted] due to his "vital" performance in winning the port lease for the organization in 1998. She asserts that [redacted] "require[s] outstanding achievement of our team" and the Petitioner's "contributions are of excellence."

The Petitioner did not demonstrate, however, that the Petitioner's accomplishments as managing director for [redacted] or on behalf of [redacted] are tantamount to an outstanding achievement consistent with this regulatory criterion. In addition, the Petitioner did not provide supporting documentation, such as the bylaws of [redacted] and [redacted] to corroborate the claims of [redacted] and [redacted] and establish the organizations' membership requirements. [8] Moreover, the Petitioner did not show that membership in [redacted] and [redacted] is judged by recognized national or international experts.

For these reasons, the Petitioner did not demonstrate that he fulfills this criterion.

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

In order to satisfy this criterion, the Petitioner must demonstrate published material about him in professional or major trade publications or other major media, as well as the title, date, and author of

[7] We note that in support of this argument, the Petitioner's brief also quotes additional statements purportedly in [redacted]'s letter that do not appear there, such as that the "slightest mistake made at a port where oil and gas are handled could cost millions of dollars and contribute to resource shortages . . . therefore, [Petitioner's] *membership* on [the] council has been essential to the maintenance of [the Council's] excellence."

[8] *See* USCIS Policy Memorandum PM-602-0005.1, *supra*, at 7 (stating that relevant factors that may lead to a conclusion that membership was not based on outstanding achievements include years of experience in a particular field, payment of a subscription fee, or employment in certain occupations).

the material.[9] In support of this criterion the Petitioner submitted copies of 22 articles published between 1998 and 2001 in Brazilian newspapers, including *A Gazeta*, *A Tribuna*, *A Gazeta Vitoria ES*, *A Gazeta Grande Vitoria*, *Gazeta Mercantil,* and *Journal Vila Velha Noticias*. The articles show that in 1998 [redacted] leased [redacted] for the movement of sold bulk loads. In 2000, due to the growth of exploratory activities in the [redacted] and [redacted] basins, [redacted] created [redacted], to offer services to seven multinationals pursuing oil and gas exploration at the coast of [redacted].[10] Further, in 2001 [redacted] entered into an agreement to provide port logistics services at [redacted] to the British company [redacted]

First, we note that five of the articles do not mention the Petitioner. While the remaining articles identify the Petitioner as the director of the [redacted] and its related companies, [redacted] and [redacted], and several of them briefly quote him, they are not articles about him. Rather, the articles are about the [redacted]'s business activities related to its lease of [redacted] including performing port logistics services related to the oil industry. Articles that are not about a petitioner do not fulfill this regulatory criterion. *See, e.g., Negro-Plumpe v. Okin,* 2:07-CV-820-ECR-RJJ at *1, *7 (D. Nev. Sept. 8, 2008) (upholding a finding that articles regarding a show are not about the actor).[11] In addition, we note that of the articles that mention the Petitioner, 13 articles do not contain either the required author or date of the material.

Further, as it relates to *Gazzetta Mercantil*, the Petitioner provided screenshots from www.bloomberg.com and www.v-brazil.com which claimed that *Gazzetta Mercantil* is an economy and finance newspapaer and that "[i]t used to be the most important financial newspaper in Brazil, but it faced a crisis in the 1990s, bordering on bankruptcy." The Petitioner did not provide circulation figures for the publication to establish its major medium status consistent with this regulatory criterion.[12] Finally, the Petitioner did not present documentary evidence establishing that *A Gazeta*, *A Tribuna*, *A Gazeta Vitoria ES*, *A Gazeta Grande Vitoria*, or *Journal Vila Velha Noticias* is a professional or major trade publication.

Based on the above, the Petitioner did not establish that he meets 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 specialization for which classification is sought.* 8 C.F.R. § 204.5(h)(3)(iv).

This regulatory criterion requires an alien to show that he has participated as a judge of the work of others in the same or an allied field of specialization.[13] For the reasons outlined below, the record

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[9] *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 7.

[10] The published materials also indicate that in the mid-1990s Brazil ended the petroleum monopoly held by PETROBRAS and opened the petroleum sector to foreign oil companies.

[11] *See also* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 7 (providing that the published material should be about the petitioner relating to his or her work in the field, not just about his or her employer or another organization with whom he or she is associated).

[12] *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 7 (finding that evidence of published material in professional or major trade publication or in other major media publications should establish that the circulation (on-line or in print) is high compared to other circulation statistics and show the intended audience of the publication).

[13] *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8.

does not reflect that the Petitioner submitted sufficient documentary evidence demonstrating that he meets this criterion.

The Petitioner claimed eligibility for this criterion based his activities as vice president of [redacted], a logistics company for [redacted]. The Petitioner submitted the aforementioned letter from [redacted], operational manager of [redacted], who asserts that the Petitioner "continues to participate with us in the activities of [redacted] through [redacted], contributing as an expert judge of contracts and business progress of the port activities, and in maintaining and negotiating contracts of our clients though his evaluations of executive employee decisions and larger Port plans."

In his decision, the Director found that, although the Petitioner asserts that the Petitioner has judged the work of other entrepreneurs or executives in their business capacities, the record does not contain evidence sufficient to show "the specific categories evaluated by the [p]etitioner, the names of the participants, or their level of expertise." On appeal, the Petitioner asserts that [redacted]'s letter establishes that the Petitioner participated "as a judge through his employment as consultant for [redacted]." This regulatory criterion requires evidence that the petitioner has served as "a judge of the work of others." The Petitioner has not established that performing routine managerial duties as a consultant such evaluating the "business progress of the port activities" and "negotiating contracts of [redacted] clients though his evaluations of executive employee decisions and larger Port plans" equates to participation as a judge of the work of others in the field.

In addition, the record does not include documentary evidence to corroborate [redacted]'s letter regarding the Petitioner's role. Depending on the specificity, detail, and credibility of a letter, USCIS may give the document more or less persuasive weight in a proceeding. The Board of Immigration Appeals (the Board) has held 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 cases). The Board also held, however: "We not only encourage, but require the introduction of corroborative testimonial and documentary evidence, where available." *Id.* If testimonial evidence lacks specificity, detail, or credibility, there is a greater need for a petitioner to submit corroborative evidence. *Matter of Y-B-*, 21 I&N Dec. 1136 (BIA 1998). Here, the record lacks specificity and detail of the Petitioner's role with [redacted]. A letter asserting that the Petitioner judged "contracts and business progress of the port activities" without specifying the work he judged and the other workers' fields of specialization is insufficient to establish eligibility for this criterion. Accordingly, we find that this evidence does not sufficiently establish the Petitioner's qualification under this criterion.

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

> *Evidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.* 8 C.F.R. § 204.5(h)(3)(v).

The Petitioner contends that the recommendation letters submitted from his colleagues reflect his business-related contributions in the field.[14] In order to meet this criterion, a petitioner must establish that not only has he made original contributions but that they have been of major significance in the field. For example, a petitioner may show that the contributions have been widely implemented

[14] Although we discuss a sampling of letters, we have reviewed and considered each one.

throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field. The Director concluded that the authors do not provide specific examples of contributions that are indicative of major significance. On appeal, the Petitioner maintains that the evidence establishes that his contributions to the field include "[c]reating 100's of jobs in the port . . . [b]ringing huge international oil and gas companies to Brazil, including [redacted] and [redacted] to Brazil . . .[b]ringing more revenue into Brazil from the oil and gas sector, [and] [b]ringing employment opportunities for *thousands* of Brazilian Citizens."

The record reflects that the Petitioner's recommendation letters confirm his entrepreneurial work for [redacted], [redacted], [redacted], and [redacted]. For instance, [redacted] who worked with the Petitioner at [redacted] praises the Petitioner's "dedication and commitment" in "making [redacted] a solid and recognized company within the Oil & Gas Industry" evaluating projects for clients operating in the [redacted] and [redacted] operational manager of [redacted] who also worked with the Petitioner at [redacted], praises the Petitioner's "dedication and commitment" to the initial development of the [redacted] port terminal, and his work with [redacted] on "important contracts with [redacted], [redacted], [redacted] and [redacted]"

[redacted] owner of a Brazilian port management company, asserts that the Petitioner is a pioneer in business and maritime trade in Brazil, based upon his successful management of the [redacted] port terminal and transformation of [redacted] "from financial disaster to one that exclusively took on oil and gas activities." [redacted] asserts in his aforementioned letter that the Petitioner's work as director of [redacted] resulted in increasing "the terminal's trade capacity, bringing lucrative contracts to the port terminal." [redacted] a colleague of the Petitioner at [redacted] and [redacted] claims that his work with the Petitioner on a project developing logistical support for the offshore segment in [redacted] "generated 800 direct jobs in the Port." He states that the Petitioner's duties involved "managing the work of our largest clients such as [redacted], [redacted] and [redacted]" and that "[t]he policies, projects, analytics, and logistics [the Petitioner] created are fundamental parts of our contracts . . . ." The record does not indicate, however, evidence that other entrepreneurs in Brazil have similarly utilized the Petitioner's policies, projects, analytics, and logistics. Here, the Petitioner has not established that the impact of his services extends beyond those companies and would connote a contribution of major significance to the field of business or entrepreneurship.

Upon review, although the authors of the aforementioned letters demonstrate that the Petitioner's work was highly regarded by the companies with which he has worked, the letters do not establish how the Petitioner's work is viewed by the field as original contributions of major significance in the field. Here, the authors do not explain how the Petitioner has significantly impacted the field in a major way consistent with this regulatory criterion. The Petitioner's letters do not contain specific, detailed information identifying his original contributions and explaining the unusual influence his entrepreneurial work has had on the overall field. Letters that specifically articulate how a petitioner's contributions are of major significance in the field and its impact on subsequent work add value.[15] On the other hand, letters that lack specifics and use hyperbolic language do not add value, and are not

[15] *See* USCIS Policy Memorandum PM 602-0005.1, *supra*, at 8-9.

considered to be probative evidence that may form the basis for meeting this criterion.[16] Moreover, USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990).

Additionally, demonstrating ability as a skilled entrepreneur is not itself a contribution of major significance; rather, the Petitioner must demonstrate that he has impacted the field as a whole. *Visinscaia v. Beers*, 4 F. Supp. 3d 126, 134-135 (D.D.C. 2013) (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). Further, while the record contains press releases and media coverage pertaining to the Petitioner's above-mentioned involvement in the management of the [redacted] port terminal, and his work at [redacted] providing port logistics to multinationals like [redacted] pursuing oil and gas exploration at the coast of [redacted] this evidence does not demonstrate that his work has influenced the broader field of business or entrepreneurship. Here, the record does not include documentary evidence showing the widespread implementation of the Petitioner's work, that it has been seminal, or that it otherwise equates to an original contribution of major significance in the field.

For the reasons discussed above, considered both individually and collectively, the Petitioner has not shown that he has made original contributions of major significance in the field.

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

The Petitioner argues that he meets this criterion based on his forum and conference presentations. The record contains photographs of the Petitioner delivering a presentation about the [redacted] at a 2008 Port Authority Conference, and a presentation to franchisors about [redacted] at the [redacted] Forum Nacional de Franqueados. The Petitioner also provided a copy of those presentations. Further, information from the 2008 Port Authority Conference indicates that it was comprised of lectures related to offshore development in the port, and that "the target audience is the port workers . . . and all civil society interested in the cause of the sector."

The language of this criterion specifically requires display of the Petitioner's work at "*artistic* exhibitions or showcases" (emphasis added). The Petitioner has not demonstrated that his work was displayed at any artistic exhibitions or showcases consistent with the plain language of this regulatory criterion. The Petitioner did not submit sufficient documentary evidence establishing that conducting a lecture or seminar in a teaching or commercial environment equates to displaying his work at exhibitions or showcases that can be considered "artistic" in nature.[17]

Based on the above, the Petitioner did not establish that he meets this criterion.

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[16] *Id.* at 9. *See also Kazarian*, 580 F.3d at 1036, aff'd in part 596 F.3d at 1115 (holding that letters that repeat the regulatory language but do not explain how an individual's contributions have already influenced the field are insufficient to establish original contributions of major significance in the field).

[17] *See* USCIS Policy Memorandum PM 602-0005.1, *supra,* at 9-10.

III. CONCLUSION

We find that the Petitioner does not satisfy the criteria relating to awards, memberships, published material, judging, original contributions, and artistic display. Although he submits evidence for two additional criteria on appeal, relating to leading or critical role at 8 C.F.R. § 204.5(h)(3)(viii) and high salary at 8 C.F.R. § 204.5(h)(3)(ix), we need not reach these additional grounds. As the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3), we reserve these issues.[18] Accordingly, we need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20.[19] Nevertheless, we advise that we have reviewed the record in the aggregate, concluding that it does not support a finding that the Petitioner has established the acclaim and recognition required for the classification sought.

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the "extraordinary ability" standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994). Here, the Petitioner has not shown that the significance of his work is indicative of the required sustained national or international acclaim or that it is consistent with a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and he is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.

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[18] *See INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach).

[19] In addition, as the Petitioner has not established his extraordinary ability under section 203(b)(1)(A)(i) of the Act, we need not determine whether he is coming to "continue work in the area of extraordinary ability" under section 203(b)(1)(A)(ii) and will not address the Director's separate finding with respect to that issue.