U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 43728055

Date: AUG. 27, 2026

Appeal of U.S. Citizenship and Immigration Services (USCIS) Decision

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

The Petitioner[1] seeks the employment-based, first-preference immigrant visa category (EB-1) for the Beneficiary, who is a classical music composer, as an alien with "extraordinary ability." *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This EB-1 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. Section 203(b)(1)(A)(i) of the Act.

USCIS denied the petition, concluding that the Beneficiary had satisfied at least three of ten initial evidentiary criteria, but the totality of the material provided in a final merits determination did not show sustained national or international acclaim demonstrating that the Beneficiary is among the small percentage at the very top of the field of endeavor. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

To qualify for this immigrant visa category, a petitioner must demonstrate that the beneficiary:

- Has "extraordinary ability in the sciences, arts, education, business, or athletics";
- Seeks to continue work in his or her field of expertise in the United States; and
- Would substantially benefit the United States as an immigrant.

Section 203(b)(1)(A)(i)-(iii) of the Act.

The term "extraordinary ability" means expertise commensurate with "one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). Unless a petitioner

[1] The Petitioner appears to be an attorney at the law firm that has assisted the Beneficiary in filing this petition.

can demonstrate international recognition of the beneficiary's achievements in the field through a one-time achievement (that is, a major, internationally recognized award), he or she must provide sufficient qualifying documentation that meets at least three of the ten lesser evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)–(x). The regulation at 8 C.F.R. § 204.5(h)(4) allows a petitioner to submit comparable evidence if he or she is able to demonstrate that the standards at 8 C.F.R. § 204.5(h)(3)(i)–(x) do not readily apply to the beneficiary's occupation.

If a petitioner meets these initial evidence requirements, USCIS must 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 beneficiary 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) (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 Amin v. Mayorkas*, 24 F.4th 383, 391 (5th Cir. 2022) (finding USCIS' two-step extraordinary ability analysis "consistent with the governing statute and regulation"); *see generally* 6 *USCIS Policy Manual* F.2(B), www.uscis.gov/policy-manual.

II. ANALYSIS

As the Petitioner has not established that the Beneficiary 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). USCIS concluded that the Beneficiary met three criteria: 8 C.F.R. § 204.5(h)(3)(i) (receipt of lesser nationally or internationally recognized awards), 8 C.F.R. § 204.5(h)(3)(iv) (participation as a judge of other's work) and 8 C.F.R. § 204.5(h)(3)(vii) (display of work at artistic showcases).

Upon review of the record, we will not disturb USCIS' determination that the Petitioner has satisfied at least three initial regulatory criteria. The record contains evidence that the Beneficiary received awards by participating in music composition competitions, judged other's work in selecting new music to be played by his chamber music group, and displayed his music composition at recitals and concerts. However, in reviewing the totality of the evidence in the context of the final merits determination,[2] we conclude that the Petitioner has not shown the Beneficiary garnered sustained national or international acclaim and his achievements have been recognized in the field of endeavor, demonstrating he is one of that small percentage who has risen to the very top of the field. *See* 8 C.F.R. § 204.5(h)(3).[3]

On appeal, the Petitioner asserts that: 1) USCIS erred in concluding that the Beneficiary did not meet three additional criteria (membership, published materials, and leading or critical role); 2) the final merits determination is "unlawful, arbitrary, and capricious, and requires reversal under *Mukherji v. Miller*"; and 3) USCIS failed to articulate specific or objective standards for showing sustained acclaim and being at the very top of the field and imposed extra-regulatory requirements. We will address each of the Petitioner's claims in the order we list here.

[2] *See also generally* 6 *USCIS Policy Manual* F.2(B)(2), https://www.uscis.gov/policymanual.

[3] As contemplated by Congress, the Beneficiary's achievements should reflect a "career of acclaimed work in the field." H.R. Rep. No. 101-723, 59 (Sept. 19, 1990).

First, as we conclude that the Beneficiary has met the required three initial criteria 8 C.F.R. § 204.5(h)(3)(i), (iv), and (vii), we need not address the Petitioner's appellate claims that the Beneficiary also meets three other criteria at 8 C.F.R. § 204.5(h)(3)(ii), (iii), and (viii). *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

Secondly, we acknowledge that the recent U.S. District Court decision, *Mukherji v. Miller,* No. 4:24CV3170, 2026 WL 895708 (D. Neb. Jan. 28, 2026), and its finding that USCIS' adoption of the two-tiered system under *Kazarian* is not valid because it was implemented without the proper notice and comment rulemaking process. However, the *Mukherji* decision issued by a district court in Nebraska is not a binding precedential authority in the present case which arises out of New York. *See Matter of K-S-*, 20 I&N Dec. 715 (BIA 1993) (in contrast to the precedential authority of the case law of a U.S. circuit court, the Board of Immigration Appeals is not bound to follow a decision of a U.S. district court). Therefore, we decline to address the substantive issues in *Mukherji* until it is properly before us. Instead, we proceed to the second step of the *Kazarian* analysis and focus on the Petitioner's specific contentions that USCIS erred in applying the final merits determination.

In a final merits determination, we analyze a petitioner's accomplishments and weigh the totality of the evidence to determine if his successes are sufficient to demonstrate that he has extraordinary ability in the field of endeavor. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2),(3); *see also Kazarian*, 596 F.3d at 1119-20. The commentary for the proposed regulations implementing section 203(b)(1)(A)(i) of the Act provides that the "intent of Congress that a very high standard be set for aliens of extraordinary ability is reflected in this regulation by requiring the petitioner to present more extensive documentation than that required" for lesser classifications. 56 Fed. Reg. 30703, 30704 (July 5, 1991). Consequently, courts have applied this high standard in interpreting "extraordinary ability." *See, e.g., Visinscaia v. Beers*, 4 F. Supp. 3d 126, 136 (D.D.C. 2013) (upholding agency's decision to deny EB-1 classification to a competitive ballroom dancer who had won world junior championship); *Lee v. Ziglar*, 237 F. Supp. 2d 914, 915, 918 (N.D. Ill. 2002) (upholding agency's decision to deny EB-1 visa to "arguably one of the most famous baseball players in Korean history"); *Kazarian v. U.S. Citizenship & Immigr. Servs.*, 596 F.3d 1115, 1117, 1122 (9th Cir. 2010) (upholding agency's decision to deny EB-1 classification to Ph.D.-holding theoretical physicist working with researchers at Caltech). Therefore, the Petitioner's claim that the standards of the initial criteria alone govern whether the Beneficiary is an individual of extraordinary ability is not persuasive.

The Petitioner's appellate claims do not acknowledge other persuasive case law that have consistently imposed high standards in adjudicating this extraordinary ability visa. The Petitioner asserts that the evidence satisfies the plain language of the initial criteria and that USCIS introduced ultra vires requirements by its "demand for comparison" to those at the top of the field. However, courts have held that comparison to others in the field to demonstrate one's extraordinary ability is proper. *See e.g., Nakos v. U.S. Citizenship & Immigr. Servs.*, No. 3:25-CV-0985-D, 2026 WL 2042845, at *8 (N.D. Tex. July 15, 2026) (finding USCIS did not impose a novel evidentiary requirement when it stated that the record lacked sufficient information about others in the field and his place in the field relative to them); *Bhanu v. Garland*, No. 22-103, 2023 WL 6119357, at *9 (E.D. Pa. Sept. 18, 2023) (upholding the final merits determination in which the petitioner did not show how his publications compared to others who are viewed to be at the very top of the field).

Moreover, courts have indicated that providing context for one's accomplishments is necessary for showing sustained national or international acclaim. *See e.g., Hamal v. U.S. Dep't of Homeland Sec.*, No. CV 19-2534 (RC), 2021 WL 2338316, at *4 (D.D.C. June 8, 2021), *aff'd sub nom. Hamal v. United States Dep't of Homeland Sec.*, No. 21-5160, 2023 WL 1156801 (D.C. Cir. Jan. 31, 2023) (upholding the finding that plaintiff did not contextualize his awards throughout his career to show sustained national or international acclaim); *Trajano v. U.S. Citizenship and Immig. Services*, No. CV 25-12388-FDS, 2026 WL 2137917, at *6 (D. Mass. July 24, 2026) (finding that although plaintiff provided a great deal of evidence concerning his career and certain accolades he had received, he did little to situate those awards and accolades in context to show how they demonstrated extraordinary ability).

Based on the regulations and pertinent case law, we agree with USCIS that the Petitioner has not sufficiently contextualized or compared the Beneficiary's accomplishments and career to other renowned composers in the field, showing that he enjoys a career that meets a very high standard. The evidence at the time of filing demonstrates that the Beneficiary, born in 2001, is a young and promising conductor and composer studying at [redacted] to earn his master's degree in music theory and composition after completing his undergraduate studies at the [redacted] in England in 2024. The instant petition was filed in December 2025.

The record demonstrates that the Beneficiary won several awards by participating in music composition competitions and earned distinctions and scholarships while studying at [redacted] and [redacted]. He received the [redacted] in 2024 from [redacted] at the time of graduation which Professor J-F-A- described as "the highest student distinctions, conferred annually upon only one graduating student [redacted]."[4] In 2022, he also won [redacted] Prize, an annual award given by [redacted] named after [redacted] a British composer and a former [redacted] student. The Beneficiary further won the 2022 edition of the 4th [redacted] in Spain and the 2023 '[redacted]' composition competition in Italy. The record includes a commissioning agreement dated August 2025 and an email dated September 2025, which indicate that the Beneficiary received the [redacted] Prize, "awarded annually to a single composer of exceptional promise to create a new chamber work."[5] Although the evidence indicates the Beneficiary's receipt of these awards, it does not sufficiently contextualize the prestige of these competitions and corroborate that the Beneficiary's participation and awards translate to sustained acclaim or elevate him to the very top in the field of classical music composition, especially in comparison to other renowned composers.

Similarly, the Beneficiary's display of his music compositions largely stems from being selected in various competitions while working on his degrees at [redacted] or [redacted]. As it is expected that being a musician, the Beneficiary would exhibit his musical compositions in front of an audience, we will evaluate the extent to which the display of his work is reflective of acclaim consistent with this classification of extraordinary ability. The Beneficiary performed at [redacted] in May 2025, conducting 24 musicians and featuring [redacted] and a contemporary work but it does not appear that

[4] *See* the recommendation letter by Professor J-F-A- who identified himself as the "14th [redacted]"

[5] *See* the recommendation letter by C-B-, president of the [redacted].

he performed his own music composition here. The Beneficiary also performed his original work at [redacted] music school after being chosen as one of composers for the [redacted] program by the [redacted] The record further indicates that the Beneficiary's composition was performed in November 2024 at the [redacted] in [redacted], as a part of [redacted][6] and at 2024-2025 [redacted] concert in [redacted]. The Beneficiary was also about to debut his commissioned clarinet trio at [redacted] after winning the [redacted] Prize in 2025. But again, the evidence is not adequate in demonstrating that the Beneficiary's display of his music compositions, its frequency, response from the field, venue, or other particulars set him apart from other composers in his field. We also note that the Beneficiary's professors use words like "debut" or "premiere" to describe the display of his music composition, indicating that the Beneficiary is at the beginning juncture of his career, not consistent with a sustained acclaim. Black's Law Dictionary defines "sustain" as "to support or maintain, especially over a long period of time" or "to persist in making (an effort) over a long period of time." *Sustain*, Black's Law Dictionary (11th ed. 2019); *see generally* 6 *USCIS Policy Manual*, *supra*, at F.2(A)(1).

The published materials submitted with the record do not sufficiently show the widespread recognition and coverage of the Beneficiary's music composition in the field by the general media. Instead, several articles characterize the Beneficiary's achievements as graduating at the top of his class at [redacted] or his admission to [redacted] For instance, the [redacted] 2024 article from www.milliyet.com.tr discusses the Beneficiary's admission to [redacted] after graduating from [redacted] with a perfect score of 100 and earning the dean's award for being an outstanding student. The [redacted] 2024 article from https://haiktv.com.tr, entitled '[redacted]' also reiterates the Beneficiary's achievement as entering [redacted] to study music composition and states that he is "still at the beginning of his career." One online publication dated [redacted] 2022 from www.haberturk.com, entitled '[redacted]' focuses on '[redacted]' project sponsored by [redacted] and how young musicians received a commission to compose a piece, but does not discuss the Beneficiary's overall influence as a composer with sustained acclaim. As such, the press coverage in the record did not appear indicative of a level of success consistent with being at the very top of his field.

The Petitioner also presented evidence that the Beneficiary co-founded and led the [redacted], established in 2022 as "a [redacted]-based ensemble of elite young musicians dedicated to commissioning and performing new music" and in 2024, he judged [redacted] competition open to new composers to have their music played by [redacted] But the record does not indicate that [redacted] is a distinguished group among other chamber ensembles and that somehow his role at [redacted] or the single instance of judging new composers' works garnered him sustained national or international reputation.

The record further includes a letter confirming the Beneficiary's membership with [redacted] founded in 1977 by [redacted] musicians "where the most forward-thinking experimental [redacted]" However, given that the Beneficiary's membership appears to be "since 2025," it does not indicate sustained acclaim. In addition, the record

[6] The festival program notes that this concert "features [redacted] faculty and current college students, with world premiere works by [redacted] and composition students from [redacted] performed by [redacted] and students of [redacted]"

lacks evidence that [redacted] membership is prestigious and significant to composers providing him with recognition and standing at the very top of his field. In addition, the Petitioner claimed that the Beneficiary is also a member of BabelScores, "a French-based publishing organization and Contemporary Music Online Library." However, the record does not show that his membership with BabelScores, a company that provides contemporary music online to a general audience, somehow contributes to a finding that he has sustained national or international acclaim without other corroborating evidence that he received widespread recognition and accolades through this membership.

Although the Petitioner offered various recommendation letters that praised the Beneficiary's artistic abilities and recognitions, they are from professors who taught the Beneficiary at [redacted] and [redacted] or acquaintances or mentors who are familiar with the Beneficiary and his work. The letters show that the Beneficiary has been active, skilled, and dedicated to his musical career, but it does not establish that he has earned sustained national or international acclaim or reached the small percentage at the very top of the field of music composition. For instance, Professor P-C-, the head of composition at [redacted] praised the Beneficiary's artistic development and achievements that "set him apart even within our highly selective student body" and that the Beneficiary was presented with the top graduating composer of the year award. The record also contains a recommendation letter from [redacted] dean who explains that the Beneficiary received prestigious scholarship to attend the school and counts him as "among an elite group of emerging artists." But the record largely consists of his activities, accomplishments, and recognition during the period from 2022 to 2025, as a student, and such evidence does not sufficiently indicate that his influence and recognition are such that he meets the high standard of being an individual of extraordinary ability.

The evidence overall depicts a promising young composer, but the record as a whole does not reflect recognition of an individual who has reached the top of his field with sustained acclaim and does not establish the Beneficiary's eligibility for the benefit sought.[7] Here, the Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than those progressing toward the top. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm'r 1994); *Amin v. Mayorkas*, 24 F.4th at 394 (stating that extraordinary ability is such an elite level of accomplishment); *Lapteva v. Schuurmans*, No. 8:24CV83, 2025 WL 815087, at *1 (D. Neb. Mar. 10, 2025) (stating that EB-1 visa are intended to be available to only an exceedingly small amount of individuals with extraordinary ability). In this case, the Petitioner has not shown the significance of the Beneficiary's work is indicative of the required sustained national or international acclaim or it is consistent with a career of acclaimed work in the field. *See* Section 203(b)(1)(A) of the Act. While the Petitioner need not establish that there is no one more accomplished than the Beneficiary to qualify for the classification sought, the record is insufficient to demonstrate that the Beneficiary is among the small percentage at the top of his field. *See* 8 C.F.R. § 204.5(h)(2).

[7] *See generally* 6 *USCIS Policy Manual*, *supra*, at F.2(B)(2) (providing that some evidence weighs more favorably on its own, while other evidence is more persuasive when viewed with other evidence).

III. CONCLUSION

For the reasons discussed above, the Petitioner has not demonstrated the Beneficiary's eligibility as an individual of extraordinary ability. In visa petition proceedings, it is a petitioner's burden to establish eligibility for the immigration benefit sought. The Petitioner has not met that burden here.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or who are otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.