U.S. Citizenship and Immigration Services

**Non-Precedent Decision of the Administrative Appeals Office**

In Re: 40381889

Date: JUL. 15, 2026

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

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

The Petitioner, a peace and security analyst, 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 (EB-1) classification makes immigrant visas available to aliens who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their fields through extensive documentation.

USCIS denied the petition, concluding the record did not establish that the Petitioner had satisfied at least three of ten initial evidentiary criteria, as required. 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 withdraw the decision and remand the matter for entry of a new decision consistent with the following analysis.

## I. LAW

Section 203(b)(1) of the Act makes visas available to aliens 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,
(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 have risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2). *See also Onaghise v. Dep't of*

*Homeland Sec.*, No. 3:20-CV-03033-X, 2022 WL 4073344, at *2 (N.D. Tex. Sept. 2, 2022) ("EB-1 petitions, nicknamed Einstein visas, are coveted visas reserved for only the most talented noncitizens with extraordinary ability in the sciences, arts, education, business, or athletics"). 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 recognition of the beneficiary's 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 they 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). Additionally, if the criteria at 8 C.F.R. § 204.5(h)(3) do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence to establish the beneficiary's eligibility. 8 C.F.R. § 204.5(h)(4).

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 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 Visinscaia v. Beers*, 4 F.Supp.3d 126, 131–32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

## II. ANALYSIS

The Petitioner states he is a "highly sought-after mediator and global authority in security analysis and conflict resolution." The Petitioner indicated that he is the founder and executive director of the [redacted] based in Nigeria. The Petitioner emphasized major media coverage of his work in Nigeria, scholarly articles he drafted in his field, and his leading role acting as a consultant to the [redacted] More specifically, he discussed his creation of a '[redacted]' to track national opportunities for youth in Nigeria as well as his leading role in meditating youth conflicts in the country for the Nigerian government. The Petitioner further pointed to his work with the [redacted]) and the [redacted] related to creating sustainable security frameworks contributing to democracy building initiatives across Africa.

Because the Petitioner has not indicated or shown that he 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). Upon review of the record, we agree that the Petitioner satisfied the criteria at 8 C.F.R. § 204.5(h)(3)(iv), relating to his participation as a judge of the work of others; and 8 C.F.R. § 204.5(h)(3)(vi) specific to his authorship of scholarly articles in the field in professional or major trade publications or other major media. However, USCIS also determined that the Petitioner did not establish the following criteria at 8 C.F.R. § 204.5(h)(3): (ii) membership in an association in the field requiring outstanding achievements as judged by recognized national or international experts; (iii) published material about the petitioner in professional or major trade publications or other major media relating

his work in the field; and (vii) his leading or critical role for organizations or establishments that have a distinguished reputation.[1]

On appeal, the Petitioner asserts that he thoroughly addressed USCIS' evidentiary requests and sufficiently established that his work was featured in major media outlets, he served in leading and critical roles for distinguished organizations such as the [redacted] and he is a member of a selective institution requiring professional excellence. The Petitioner contends he satisfies three of the initial regulatory criteria as required and that a final merits determination should have been favorably conducted.

Upon review, we conclude that the Petitioner has sufficiently demonstrated that he satisfies the criterion at 8 C.F.R. § 204.5(h)(3)(iii) as he submitted substantial supporting documentation reflecting several published articles in Nigerian major media outlets discussing his organization and his work in peace building, conflict resolution, and security analysis. Contrary to USCIS' conclusion, these provided articles in major Nigerian newspaper outlets specifically discuss the Petitioner's work in his field and his expertise in conflict resolution.

The Petitioner has, therefore, overcome the only stated ground for denial of the petition. Nevertheless, the record does not support approval of the petition. Granting the third initial criterion does not suffice to establish eligibility for the EB-1 classification. USCIS must undertake a final merits determination to analyze the Petitioner's accomplishments and weigh the totality of the evidence to determine if they establish extraordinary ability in the Petitioner's 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.[2]

## III. CONCLUSION

Because the Petitioner has overcome the only stated ground for denial, we remand this matter so that USCIS can render a final merits determination in keeping with the *Kazarian* framework.

**ORDER:** The decision is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

[1] We note that USCIS further determined the Petitioner did not demonstrate that he met the criterion at 8 C.F.R. § 204.5(h)(3)(viii) specific to contributions of major significance in his field. However, the Petitioner does not discuss this criterion on appeal; therefore, we will not address it in this decision.

[2] *See also* 6 *USCIS Policy Manual* F.2(B)(2), https://www.uscis.gov/policymanual (stating that USCIS officers should then evaluate the evidence together when considering the petition in its entirety to determine if the petitioner has established, by a preponderance of the evidence, the required high level of expertise for the immigrant classification).