U.S. Citizenship and Immigration Services

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

In Re: 43219474

Date: JUNE 11, 2026

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

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

The Petitioner, a chef and restaurateur, 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.

USCIS denied the petition, concluding that although the Petitioner established that he satisfied the initial evidentiary requirements, he did not demonstrate his sustained national or international acclaim and that he 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

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,

(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). 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). If an evidentiary standard under 8 C.F.R. § 204.5(h)(3)(i)-(x) does not "readily apply" to a petitioner's occupation, the petitioner may submit "comparable evidence" to establish 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 individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115, 1121 (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, 394 (5th Cir. 2022) (upholding USCIS' two-step review process as "consistent with the governing statute and regulation").

## II. ANALYSIS

The Petitioner claims eligibility for this classification as an individual of extraordinary ability in the fields of culinary arts and restaurant management. He is a chef and restaurateur who currently owns and operates a business in [redacted] Turkey, which he indicates includes four restaurants and a catering business. He intends to work in the United States as a chef and restaurateur.

The Petitioner has not indicated or established that he has received a major, internationally recognized award. He claimed to have met the following initial evidentiary criteria:

- lesser nationally or internationally recognized awards or prizes;
- memberships in associations;
- published materials about the individual;
- judge of others' work;
- original contributions of major significance; and
- leading or critical roles.

8 C.F.R. § 204.5(h)(3)(i)-(v), (viii).

In addition, the Petitioner submitted comparable evidence to establish eligibility pursuant to 8 C.F.R. § 204.5(h)(4), claiming the criteria of authorship of scholarly articles and display of work at artistic showcases or exhibitions does not apply to his work as a chef and restaurateur. USCIS determined that the Petitioner fulfilled three of the claimed criteria but concluded in a final merits determination that he did not establish his sustained national or international acclaim in the field or show that he is one of that small percentage at the very top of that field and denied the petition accordingly.

On appeal, the Petitioner asserts that he meets the additional initial criteria claimed beyond the three he was granted. For the final merits determination, he argues that that USCIS' decision failed to consider the totality of the evidence. He emphasizes that not only are each of his accomplished achievements extraordinary, the totality of the evidence clearly supports him being one of the few professionals who have reached the top of his field.

In addition, the Petitioner cites a district court decision, *Mukherji v. Miller*, No. 4:24-CV-3170 (D. Neb. Jan. 28, 2026), in which the court objected to USCIS' reliance on *Kazarian* to justify its use of the final merits determination as the basis for dismissing an appeal. We disagree with the Petitioner's reliance on this non-precedent decision. In contrast to the precedential authority of the case law of a United States circuit court, we are not bound to follow a decision of a United States district court. *See Matter of K-S-*, 20 I&N Dec. 715 (BIA 1993). Moreover, while we may consider the court's reasoning when it is properly before us, unpublished opinions are not considered binding precedent. *See Suchite-Salguero v. Att'y Gen. United States*, 147 F.4th 355, 359-60 (3d Cir. 2025) ("[W]e have cautioned over and over again that non-precedential opinions carry little to no weight for future cases."); *Wang v. Holder*, 569 F.3d 531, 538 n.5 (5th Cir. 2009); *cf. Matter of K-S-*, 20 I&N Dec. at 719 (considering the reasoning of district court decisions). Notably, the *Mukherji* decision was issued by a district court in Nebraska. Whereas, in the present case, the petition was denied at the Texas Service Center, outside the jurisdiction of the Nebraska court that decided *Mukherji*. The two-step adjudication process is an interpretive rule that does not violate the Administrative Procedure Act, nor is it a legislative rule. *Nagaiah v. Allen*, 784 F. Supp. 3d at 810; *Agrawal v. Miller*, No. 4:24CV3143, 2025 WL 2879217, at *12 (D. Neb. Sept. 12, 2025); *Etsy, Inc. v. Jaddou*, No. 4:22CV3022, 2023 WL 3689555, at *23 (D. Neb. May 25, 2023) (citing *Perez v. Mortg. Bankers Ass'n*, 575 U.S. 92, 96 (2015).

Upon de novo review, the Petitioner has not established eligibility as a person of extraordinary ability.[1]

In a final merits determination, we analyze the Petitioner's accomplishments and weigh the totality of the evidence to determine if his successes are sufficient to demonstrate 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 v. USCIS*, 596 F.3d at 1119-20. Because extraordinary ability is an elite level of accomplishment whose recognition necessarily entails a judgement call, it cannot be established through meeting at least three of the evidentiary criteria alone. *See Amin v. Mayorkas*, 24 F.4th at 394-395. The final merits determination is the ultimate statutory inquiry of whether the applicant has extraordinary ability, as demonstrated by a preponderance of the evidence, his sustained national or international acclaim, he is one of the small percentage at the very top of the field of endeavor, and his achievements have been recognized in the field through extensive documentation.

Here, we review the record focusing on the broader issue of sustained acclaim rather than the narrower focus of those initial criteria. The Petitioner has judged the work of others in his field, has published materials about himself, and has performed a leading role for an establishment that has a distinguished reputation. We have also considered evidence related to nationally or internationally recognized awards or prizes; membership in associations; original contributions of major significance in the field; and comparable evidence for authorship of scholarly articles and display of work at artistic showcases. We agree with the Petitioner that his evidence should be viewed in the context of the entire record,

[1] While we may not discuss every document submitted, we have reviewed and considered each one.

rather than in isolation. But we agree with USCIS that this evidence does not consistently show his achievements are reflective of a "career of acclaimed work in the field" as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990).

As it pertains to his service as a judge of others, an evaluation of the significance of his experience is appropriate to determine if such evidence is indicative of the extraordinary ability required for this highly restrictive classification. *See Kazarian v. USCIS*, 596 F.3d at 1121-22.[2] The Petitioner provided statements of participation showing that he served on two jury panels for young chef competitions, one for the [redacted] competition and the other for a [redacted] regional final for [redacted] competition. The Petitioner, however, did not establish that him being a jury member and mentoring young chefs' for the two competitions places him among the small percentage at the very top of his field. *See* 8 C.F.R. §204.5(h)(2). In addition, the Petitioner did not demonstrate that his judging experience contributes to a finding that he has a "career of acclaimed work in the field" as contemplated by Congress or indicative of the required sustained national or international acclaim. *See* H.R. Rep. No. at 59 and section 203(b)(1)(A) of the Act. The Petitioner did not establish, for instance, that he garnered wide attention from the field based on his work as a jury member or mentor for the young chefs' competitions. The Petitioner did not establish that his work as a jury member and mentor resulted in or reflects his sustained international or national acclaim in the field, was recognized outside of those competitions, or places him among that small percentage at the very top of his field. *See* 8 C.F.R. §204.5(h)(2).

Regarding published material about the Petitioner, he submitted several articles discussing his restaurants and his culinary arts skills as a chef and restaurateur. Many of the articles coincide with the opening of his restaurants, [redacted] and provide details of the restaurant's cuisine and preferred menu items. The articles also include interviews with the Petitioner, mainly discussing his career background and his restaurants' menus and dining rooms. While some articles convey the Petitioner is a talented chef and his restaurants have been successful, the record does not include evidence that the overall press coverage is indicative of a level of success consistent with being among that small percentage who has risen to the very top of his field of endeavor.

Many articles are from 2016 and 2017 relating to his restaurant, [redacted] which has been a well-regarded [redacted] restaurant, having hosted several celebratory events for well-known individuals and receiving culinary distinctions with the Petitioner being commended as best chef in 2017 by one of the publications, [redacted] More recent articles from 2022 and 2023 include interviews of the Petitioner and him opening two restaurants, [redacted] Many articles relating to these restaurants are short informational summaries describing the cuisine, their dining rooms, and the restaurants valuing sustainability and biodiversity. In addition to discussing the Petitioner's restaurants, the same articles discuss other well-regarded chefs and restaurants in [redacted] While the published material convey the Petitioner receiving attention for his culinary arts and restauranteur skills, he did not establish that such reporting is consistent with a level of success among that small percentage who has risen to the very top of the field, has achieved sustained national or international acclaim, or has a career of acclaimed work. The Petitioner, for instance, did not show how the amount of his media coverage compares to others in his field who are among the very top. Moreover, while

[2] *See generally* 6 *USCIS Policy Manual* F.2(B)(1), https://www.uscis.gov/policy-manual (stating that an individual's participation should be evaluated to determine whether it was indicative of being one of that small percentage who have risen to the very top of the field of endeavor and enjoying sustained national or international acclaim).

the Petitioner provided his own circulation information for the articles' publications, he did not show the sustained national or international acclaim he garnered from the articles. The Petitioner did not show that his overall media coverage is indicative of a level of success consistent with being among that small percentage who has risen to the very top of his field of endeavor.

For leading or critical role, the record reflects that the Petitioner performed in a leading role for his restaurants, [redacted] The Petitioner emphasizes that he founded and has been the sole owner of a successful holding company for these restaurants, as well as for a fourth restaurant, [redacted] and a catering business. We acknowledge the record demonstrates that the Petitioner has held a leading role for his restaurant businesses, [redacted] and that these restaurants have distinguished reputations in [redacted] However, the Petitioner did not establish that his role with any of the restaurants is reflective of, or has resulted in, widespread acclaim from his field or that he is considered to be at the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2).

Reference letters from colleagues and clients attest to the Petitioner's culinary arts and restaurateur skills and knowledge, but the record lacks other independent evidence, such as news articles or other relevant materials, demonstrating that the field has widely recognized the Petitioner's roles or contributions to his businesses in a manner that evidences a "career of acclaimed work." As mentioned above, while articles highlight the Petitioner's talents and the restaurants' being well-regarded in [redacted] most of the articles submitted coincide with the opening of each of his restaurants and their garnering positive attention at the time each of them opened for business. However, the evidence does not show that his roles and achievements owning and operating his business places him among "that small percentage who have risen to the very top of the field of endeavor." *See* 8 C.F.R. § 204.5(h)(2); *see also Hamal v. U.S. Dep't of Homeland Sec.*, No. CV 19-2534 (RC), 2021 WL 2338316, at *4, *aff'd sub nom. Hamal v. United States Dep't of Homeland Sec.*, No. 21-5160, 2023 WL 1156801 (upholding plaintiff did not contextualize his work at an organization demonstrating recognition by the field as being significantly important or viewed as unusually influential).

Beyond the criteria that the Petitioner satisfied, we consider additional documentation in the record in order to determine whether the totality of the evidence demonstrates eligibility. Here, for the reasons discussed below, we find that the evidence neither fulfills the requirements of any further evidentiary criteria nor contributes to an overall finding that the Petitioner has sustained national or international acclaim and is among the small percentage of the top of his field.

As it relates to awards, the Petitioner provided evidence for five awards, an award nomination, and an honorary recognition. While the Petitioner being awarded best chef by the publication, [redacted] in 2017 shows recognition of his culinary arts skills, the Petitioner did not demonstrate how this award from several years ago translates into national or international acclaim in his field. Moreover, the Petitioner did not demonstrate how the awards and the honorary plaque he received in 2013 from [redacted] place him among that small percentage at the very top of the field or that he garnered national or international acclaim in the field.

In addition to the Petitioner being recognized, he showed that his restaurants have been recognized, namely [redacted] being nominated for best new restaurant by the [redacted] publication in 2017; [redacted] and [redacted] each being awarded three [redacted] by the [redacted]; and [redacted] receiving one [redacted] in 2024 and in 2025 in the International Flavors, Street Food categories by [redacted]

[redacted] While his restaurants have received some recognition, he has not shown the national or international acclaim he received based on his restaurants receiving the nomination and awards or that he is one of that small percentage who has risen to the very top of his field.

For membership in associations, the Petitioner submitted evidence he has been a member of Chaine des Rotisseurs Turkey since 2015 and a member of Turkish Restaurant & Entertainment Association (TURYID) since 2019. The Petitioner submitted letters from the associations which generally praise his contributions to the associations through his mentoring younger students; speaking with media to highlight gastronomy as part of cultural identity for Turkish tourism and innovation; and sharing his knowledge to encourage professional development. However, while the Petitioner has shown he is a valued, contributing member of the associations, he did not show how his memberships with Chaine de Rotisseurs Turkey and TURYID resulted in sustained national or international acclaim or reflects that small percentage who has risen to the very top of the field of endeavor. The record, for instance, does not contain evidence indicating that he received national or international recognition based on his memberships. In addition, the Petitioner did not establish that he has distinguished himself from others in the field based on his memberships, gaining national or international attention or placing him among the upper echelon in his field.

For original contributions of major significance in his field, the Petitioner contends that his cooking is his original contributions of major significance to his field of culinary arts, as demonstrated in the published material about him and the recommendation letters. He claims that he has been recognized in his field beyond his customers, emphasizing letters provided by professional chefs and media articles by independent journalists written about him, his restaurants, and his unique cuisine. As discussed above, the Petitioner submitted articles published in 2016 and 2017 about him and his restaurant, [redacted] and an article honoring the Petitioner as best chef in 2017 by one of the publications. More recent articles from 2022 and 2023 include interviews of the Petitioner and his opening the restaurants, [redacted] As discussed above, many articles relating to his restaurants are short informational summaries describing the cuisine, their dining rooms, and the restaurants valuing sustainability and biodiversity. We note that many of these articles also discuss other well-regarded chefs and restaurants in [redacted] without distinguishing the Petitioner's cooking from others in his field or indicating how his cooking has been of significance to his field that he is one of the small percentage at the top of his field.

Further, the Petitioner provided a copy of a cookbook he authored, claiming the recipes are his original contributions which has been of major significance to his field in that he has sold a large number of these books and also provided 5,000 copies to fellow chefs for educational purposes. He claims the publication of his cookbook, its high sales, and its use for educational purposes demonstrate his acclaimed work in his field. The Petitioner, however, has not provided evidence corroborating his claims about the high sales of his cookbook and the 5,000 copies he distributed for educational purposes. Moreover, he has not established that he has distinguished himself from others in the field based on his cookbook or shown that he is at a level of success among that small percentage who has risen to the very top of the field, has achieved sustained national or international acclaim, or has a career of acclaimed work.

Other than the Petitioner being recognized for his work by the publication, [redacted] naming him as best chef in 2017, and his restaurants being recognized with [redacted] by the [redacted] and with

two [redacted] by [redacted], the Petitioner has not provided evidence establishing that his original contributions in culinary arts and restaurant management reflect a career of acclaimed work in his field gaining national or international attention or distinguishing himself from others in the field.

Further, the Petitioner provided recommendation letters from his clients, his colleagues, and journalists. In general, the letters summarize the Petitioner's career as a chef and praise his culinary arts skills and his restaurants. The letters, however, do not contain detailed information showing how the Petitioner's work as a chef and restaurateur has contributed to or has had a major impact on his field. While the Petitioner's clients, fellow colleagues, and journalists covering Turkish gastronomy attest in general terms to his culinary arts skills and his work being successful and influencing Turkish cuisine, they have not articulated how his culinary arts and restaurateur work has been considered of such importance and how its impact in the field rises to a level of major significance, or otherwise establishes that he is considered among the small percentage at the very top of his field. For instance, the letters indicate the Petitioner has technical excellence, creative vision, and cultural authenticity, but they do not describe in detail how the Petitioner or his restaurants have affected their work or the field of culinary arts, or are indicative that he is considered among that small percentage at the very top of his field of endeavor.

In addition, the Petitioner provided evidence that he presented at culinary conferences and at educational and community events, including presentations at [redacted] in 2018; a career day presentation at [redacted] in 2021 and 2022, a [redacted] presentation about Turkish cuisine at [redacted] which was posted on [redacted] YouTube channel; and provided dishes at [redacted] in 2022 as a representative for the Turkish embassy in New York. In addition, he provided screenshots from websites indicating he has appeared on shows as a guest chef and collaborated with athletes for video series shows. However, the Petitioner has not provided detailed information about these events to understand whether his presentations and appearances show he has a career of acclaimed work in his field gaining national or international attention or distinguished himself from others in his field.

The record as a whole, including the evidence discussed above, does not establish the Petitioner's eligibility for the benefit sought. 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) (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of "extraordinary ability,"); *Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131 (D.D.C. 2013) (finding that the extraordinary ability designation is "extremely restrictive by design"); *Hamal v. Dep't of Homeland Sec. (Hamal II)*, No. 19-cv-2534, 2021 WL 2338316, at *5 (D.D.C. June 8, 2021), *aff'd*, 2023 WL 1156801 (D.C. Cir. Jan. 31, 2023) (determining that EB-1 visas are "reserved for a very small percentage of prospective immigrants"); *see also Hamal v. Dep't of Homeland Sec. (Hamal I)*, No. 19-cv-2534, 2020 WL 2934954, at *1 (D.D.C. June 3, 2020) (citing *Kazarian v. USCIS*, 596 F.3d at 1122 (upholding denial of petition of a published theoretical physicist specializing in non-Einsteinian theories of gravitation) (stating that "[c]ourts have found that even highly accomplished individuals fail to win this designation")); *Lee v. Ziglar*, 237 F. Supp. 2d 914, 918 (N.D. 2002) (finding that "arguably one of the most famous baseball players in Korean history" did not qualify for visa as a baseball coach).

Here, the Petitioner has not shown the significance of his work is indicative of the required sustained national or international acclaim or 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 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). The record does not contain sufficient evidence establishing the Petitioner among the upper echelon in his field.

## III. CONCLUSION

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an alien of extraordinary ability. The appeal will be dismissed for the above stated reasons.

**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.