U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 41833361

Date: MAR. 25, 2026

Appeal of Service Center Operations Decision

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

The Petitioner, a singer, 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.

Service Center Operations (SCOPS) denied the petition, concluding that although the Petitioner had had satisfied at least three of ten initial evidentiary criteria, the record did not establish that the Petitioner is one of the small percentage who has risen to the very top of the field of music. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3. On appeal, the Petitioner contends that SCOPS did not conduct a proper analysis of the evidence, imposed a new standard that is not found in the statute or regulation, and did not explain what additional evidence would have shown his status as a singer on the very top of the field. The Petitioner maintains that the evidence supports his eligibility for the EB-1 classification.

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 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 the 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 whose stage name is [redacted] is a [redacted] singer, songwriter, guitarist, and band artist in the [redacted] genres. In [redacted] he co-founded a rock band, [redacted], and was the vocalist of the band until [redacted] when he left the band. In [redacted] he co-founded a rock band, [redacted], and has been the guitarist and vocalist of the band since [redacted] The Petitioner also hosts a [redacted] The Petitioner intends to work in the United States as a singer.

A. Evidentiary Criteria

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). SCOPS decided that the Petitioner had satisfied five claimed criteria relating to awards, published material, judging, display, and commercial successes under 8 C.F.R. §§ 204.5(h)(3)(i), (iii), (iv), (vii), and (x), respectively. Upon consideration of the record, we conclude that the Petitioner appears to have satisfied only three criteria relating to published material, judging, and display at 8 C.F.R. §§ 204.5(h)(3)(iii), (iv), and (vii), respectively. Because the regulation at 8 C.F.R. § 204.5(h)(3) requires the satisfaction of only three criteria, we need not discuss the other two criteria relating to awards and commercial successes at 8 C.F.R. §§ 204.5(h)(3)(i) and (x),

respectively, and hereby reserve them.[1] As the Petitioner has satisfied the initial evidentiary requirements, we will evaluate the totality of the evidence, including the documentation relating to other criteria he has claimed, in the context of the final merits determination.

B. Final Merits Determination

As the Petitioner has submitted the requisite initial evidence, we will evaluate whether the record demonstrates by a preponderance of the evidence that he has 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. *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. In this matter, we determine the Petitioner has not established that he has sustained national or international acclaim. While we may not address each piece of evidence individually, we have reviewed and considered each one.

With respect to awards, the Petitioner provided documentation showing that he received (1) the [redacted] Award in 2022 in the best singer category, (2) the [redacted] Award in 2019 as the best popular singer, (3) the [redacted] Award in 2024 in the best singer category, and (4) the [redacted] Award in 2024 as the best singer. A letter from the president of [redacted] provides that [redacted] is "an organization dedicated to recognizing remarkable accomplishments in the entertainment and cultural sectors of [redacted]," and the Petitioner received the award for his "outstanding contributions to the [redacted] music industry." A letter from the president of [redacted] explains that [redacted] is "committed to promoting and celebrating the arts, music, and culture of [redacted]" and its award for the best singer "emphasizes [the Petitioner's] skill in enthralling audiences with his distinctive voice, creative compositions, and dynamic stage presence." A letter from the president of [redacted] states that "as a group dedicated to honoring the vibrant cultural legacy of [redacted], [redacted] acknowledges those who have significantly contributed to their arts and culture sectors." A letter from a secretary of the Unity for Young Journalists affirms that the [redacted] Awards "honors the achievements and outstanding performance of individuals in diverse areas, such as music, drama, film, and others," and the Petitioner's receipt of the award "reflects his steadfast commitment, remarkable skills, and significant influence on [redacted] music."

The letters from awarding organizations indicate that the Petitioner was recognized by entities relating to television reporters or journalists for his accomplishments in the entertainment and cultural sectors of [redacted] contributions to the [redacted] music industry, and musical skills, talent, and stage performances. However, the record lacks sufficient evidence of the national or international recognition of these awards, such as international, national, or widespread local coverage of these awards in music, entertainment, or general media, showing that the awards have been recognized beyond the presenting organizations to demonstrate acclaim in the field. *See* section 203(b)(1)(A)(i) of the Act. The Petitioner has not sufficiently demonstrated how his receipts of the awards from 2019 to 2024 from entities representing television reporters, entertainment journalists, or young journalists are indicative

[1] *See INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

of the required "national or international acclaim" for his musicianship in the field or how the awards demonstrate that he is among the small percentage at the very top of the field of endeavor. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2).

Regarding the Petitioner's membership in associations, the record includes letters from the president of the [redacted] which show that his rock band, [redacted], not the Petitioner himself, has been a member of [redacted] for over 14 years. The Petitioner also provided letters from the secretary of Singers Association of [redacted] stating that the Petitioner has been an active participant in the [redacted] since 2022. The Petitioner submitted articles and letters indicating that [redacted] is committed to working for the betterment of bands, musicians, and artists, and [redacted] is dedicated to safeguarding artists' rights and the music community in [redacted] The submitted articles provide general information about [redacted] and its history, new band members and new executive committee, current activities, and future plan and about [redacted] and its establishment, new executive and advisory committees, meetings, and mission. However, the letters and articles do not discuss the significance or prestige of [redacted]'s membership with [redacted] or the Petitioner's membership with [redacted] to demonstrate that it contributes to a finding of sustained national or international acclaim. The record does not sufficiently establish that [redacted]'s membership with [redacted] or the Petitioner's membership with [redacted] has led to "national or international acclaim" for the Petitioner or places him among the small percentage at the very top of his field. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2).

For published material, the record includes various articles about the Petitioner relating to his work and interview articles of the Petitioner discussing his passion for music, bands, songs, music and acting career, podcast, personal life, and views on other topics. These articles were published in various newspapers and other major media, including [redacted] A letter from the managing editor of [redacted] states that their extensive documentation of the Petitioner's career "demonstrates not only [his] creative longevity but also the enduring public interest in his journey." A letter from an editor of [redacted] confirms that "across more than two decades [redacted] has published over 150 pieces directly covering [the Petitioner] ranging from full-length interviews to concert previews, critical essays, and cultural retrospectives," and the Petitioner is "not only a talented musician but a cultural leader, a voice of integrity, and a figure whose work has consistently shaped national identity." A letter from an editor of [redacted] asserts that the Petitioner is "not only one of the finest musicians [redacted] has produced; he is also a role model whose journey reflects the very best of what it means to be an artist – innovative, fearless, and deeply human."

These articles and letters illustrate the Petitioner's musical talent, creativity, humility, diverse skills in music, acting, and podcasting and the popularity of his music and two rock bands, [redacted] and [redacted], in the [redacted] music industry. Upon review, we find that the evidence related to published material likely demonstrates that the Petitioner has received national acclaim and sustained it for two decades. However, 8 C.F.R. §§ 204.5(h)(2)-(3) also require that the Petitioner demonstrate a level of expertise placing him amongst the small percentage who have risen to the very top of his field of endeavor. Here, the Petitioner did not adequately explain how the published material elevates him above other popular musicians in his genres. For example, the letter from [redacted] calls the Petitioner a "cultural icon" and that it has published "cultural retrospectives" on his work. However, those articles are absent from the record. The Petitioner seeks a highly restrictive visa classification and must

demonstrate eligibility through "extensive documentation." *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(3). The record as a whole, when considered together with other evidence in the record, does not reflect a level of success being among that small percentage who has risen to the very top of the field of endeavor. *See* 8 C.F.R. § 204.5(h)(2).

Relating to judging, the Petitioner submitted letters from a co-judge and the assistant general manager of human resources at [redacted] discussing the Petitioner's contributions in 2015 as one of the judges in "[redacted]," a television talent-hunt program to discover hidden talents among teenagers. In addition, the Petitioner submitted a letter from the president of [redacted] acknowledging the Petitioner's role in 2008 as a jury member in season 2 of "[redacted]," a talent-hunt show, which was organized by [redacted] to discover the best band in [redacted] The letter from the president of [redacted] asserts that the Petitioner "showcased his dedication to nurturing emerging talent in the country's band music genre." He also provided screenshots of the shows from YouTube and articles covering the shows and proving a list of the bands and their members who will perform in [redacted]'s next episode.

Although the letters indicate that the Petitioner's participation in the shows as a judge were important to the program organizers, they do not establish that it has led to national or international acclaim for him. *See* section 203(b)(1)(A)(i) of the Act. For example, without sufficient supporting evidence showing the level of national or international prestige associated with these talent-hunt shows, we cannot conclude that serving as a judge for these shows is commensurate with sustained national or international acclaim at the very top of the field. *See* 8 C.F.R. § 204.5(h)(2). Moreover, we note that the Petitioner has submitted evidence of his participation as a judge for two shows in 2008 and 2015, which is not extensive or commensurate with sustained national or international acclaim. But the statute and regulations require "extensive documentation" and for the petitioner to demonstrate that the beneficiary's national or international acclaim has been sustained. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(3). While the talent-hunt shows may provide great entertainment value for viewers, the Petitioner has not shown that two instances of evaluating the performance of non-professionals reflect "sustained acclaim at the national or international level" or elevates his standing as one of a few top singers or musicians in his genres.

Regarding the showcasing of the Petitioner's music in concerts, shows, or other events, the Petitioner provided screenshots of his performances and music videos from YouTube, recommendation letters from various individuals, articles covering [redacted] and its reunion concert, article covering [redacted] and its music videos and albums, and articles covering concerts, shows, or other events in which the Petitioner has participated or performed. The Petitioner's evidence shows that his work as a singer, guitarist, and band artist has been displayed at many concerts or shows in [redacted] over his music career. However, for example, the record does not show that these performances have been extensively covered in media, received critical acclaim, resulted in commercial success, or otherwise garnered sustained national or international acclaim for the Petitioner. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2). Accordingly, the record does not sufficiently show that the concerts, shows, and other events in which he has performed brought "national or international acclaim" for him. While frequent performances are inherent to the musical profession, the regulation requires that evidence demonstrates "sustained national or international acclaim," and not simply document the Petitioner's continued employment or professional activities in his field. *See* section 203(b)(1)(A)(i)

of the Act; 8 C.F.R. §§ 204.5(h)(2)-(3). The Petitioner has not sufficiently established that he has enjoyed sustained acclaim as a result of his performances at various venues.

With respect to commercial success, the Petitioner provided a letter from the proprietor of [redacted], a [redacted] record label, which claims to have produced, marketed, and distributed all the sound recordings and music videos of [redacted] and one solo track of the Petitioner in a compilation album. The letter states that [redacted] 2002 "debut album [redacted]' is the highest grossing CD album of [redacted], selling 700,000+. As a result of the commercially successful albums, [the Petitioner] was paid a portion of the revenue generated by [redacted] that is around BDT 5 million BDT till date. He was also paid around BDT 100,000/- for his solo track." While the letter states that [redacted] debut album is the highest grossing CD album of the record label, the Petitioner did not demonstrate that any of [redacted] albums have enjoyed unit sales at levels that reflect commercial successes compared to other musicians in the genres. The letter also does not indicate the number of copies sold for the Petitioner's 2006 solo album or whether his solo album has enjoyed sales at a level that reflects commercial success compared to other musicians in his genres that resulted in "sustained national or international acclaim." *See* section 203(b)(1)(A)(i) of the Act.

In addition, the Petitioner provided copies of an artist representation agreement between a talent management and marketing agency and [redacted], a producer services agreement between a brand and communication agency and the Petitioner, and an artist services contract between a logistics service company and the Petitioner showing the Petitioner's and [redacted]'s professional activities in 2024. However, the Petitioner did not adequately explain how this evidence demonstrates acclaim or recognition or how it places him amongst the select few at the top of his field. Furthermore, he did not offer evidence of his or [redacted]'s commercial successes through receipts or sales or evidence related to his more recent music career to demonstrate "sustained national or international acclaim." *See id.*

The totality of the evidence, including the Petitioner's receipts of four awards from entities relating to televisions reporters or journalists in 2019, 2022, and 2024, [redacted]'s membership in [redacted], the Petitioner's membership in [redacted] since 2022, the Petitioner's participation in two television talent-hunt shows in 2008 and 2015, extensive published material about the Petitioner relating to his work in the field in various newspapers and websites, the Petitioner's performances at various concerts, shows, and other events during his music career, the success of [redacted]'s 2002 debut album, and the Petitioner's and [redacted]'s continued professional activities in 2024 demonstrate the Petitioner's musical talent, diverse skills in music, acting, and podcasting, successful music career, and contributions to the [redacted] music industry. However, they fall short of successfully demonstrating that the Petitioner has garnered sustained national or international acclaim in his field and is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2).

III. CONCLUSION

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for those progressing toward that goal. U.S. Citzenship and Immigration Services 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 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 that 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; 8 C.F.R. § 204.5(h)(2).

For the reasons we have discussed above, the Petitioner has not demonstrated eligibility as an alien 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.

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.