



**U.S. Citizenship  
and Immigration  
Services**

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

In Re: 25051844

Date: FEB. 24, 2023

Appeal of Nebraska Service Center Decision

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

The Petitioner is a music composer and director who 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 Nebraska Service Center Director denied the Form I-140, Immigrant Petition for Alien Workers, concluding the Petitioner did not establish that he will continue to work in the United States in his area of expertise. The Director further determined he did not demonstrate his entry into the country will substantially benefit the United States in a prospective manner. The matter is now before us on appeal. The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (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 conclude that a remand is warranted in this case.

Although the Director's denial reflected the Petitioner is at the very top of his field of endeavor, they did not support that conclusion with any analysis. Lacking is any indication or explanation of which regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x) the Petitioner has satisfied, as is their analysis of his sustained national or international acclaim demonstrating he is among the small percentage at the very top of his field within a final merits determination. After reviewing the record, we conclude that it does not adequately support the Director's decision. Because of this shortcoming, we are remanding the matter for them to explain which regulatory criteria the Petitioner's evidence has met, and why he warrants a favorable outcome within a final merits determination.

Additionally, it appears the Director considered the Petitioner's field too narrowly when they stated "[t]he record shows that as a singer/composer/musical director [he is] at the very top of the field of Georgian folklore and liturgical music." The Director may elect to reevaluate this issue and decide how precisely they wish to tailor his bailiwick before evaluating his eligibility under this classification's other requirements. In fact, within the initial filing the Petitioner characterized himself as seeking classification under this preference category "specifically in music direction and composition."

While the Petitioner has received accolades as a Georgian liturgical music director and composer, without considering the Petitioner's field more broadly, the Director has limited consideration of his achievements and stature to a small subset of those in his field. Even though his specialty in folklore music may differentiate him from other music directors and composers, we generally will not narrow his field to others with his specific type of training and experience.

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