



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

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

In Re: 27544973

Date: JUNE 29, 2023

Motion on Administrative Appeals Office Decision

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

The Petitioner, an electrical engineer, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A).

The Director of the Nebraska Service Center denied the Form I-140 petition, concluding the Petitioner did not establish that he satisfied the initial evidentiary requirements through evidence of a one-time achievement or meeting at least three of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3). We dismissed the Petitioner's appeal. The matter is now before us on motion to reopen. 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). Upon review, we will dismiss the motion.

While we may not individually discuss each piece of evidence the Petitioner submits with his current motion, we have reviewed and considered each one. We incorporate our prior decision by reference and will repeat only certain facts as necessary. In our appellate decision, we agreed with the Director that the Petitioner did not submit the required initial evidence of either a one-time achievement or documents that meet at least three of the ten criteria.¹

A motion to reopen must state new facts and be supported by documentary evidence. 8 C.F.R. § 103.5(a)(2). Our review on motion is limited to reviewing our latest decision. 8 C.F.R. § 103.5(a)(1)(ii). We may grant motions that satisfy these requirements and demonstrate eligibility for the requested benefit. *See Matter of Coelho*, 20 I&N Dec. 464, 473 (BIA 1992) (requiring that new evidence have the potential to change the outcome).

Regarding the awards criterion at 8 C.F.R. § 204.5(h)(3)(i), the Petitioner maintains that he received a Red Dot award. The evidence indicates that this award was given to the [redacted] portable charging device and the company that designed it. The Petitioner has not demonstrated that he was named as a recipient of a Red Dot award. He also points to various student awards he claims to have received, but his motion does not include evidence indicating that they are nationally or internationally recognized awards for excellence in the field electrical engineering. Without further evidence

¹ We determined that the Petitioner did not fulfill the awards criterion at 8 C.F.R. § 204.5(h)(3)(i), the judging criterion at 8 C.F.R. § 204.5(h)(3)(iv), and the original contributions criterion at 8 C.F.R. § 204.5(h)(3)(v). The Petitioner did not claim to meet any other criteria on appeal.

regarding their national or international significance in his field, the Petitioner has not demonstrated that his claimed awards are nationally or internationally recognized prizes or awards for excellence in the field.

As evidence for the judging criterion at 8 C.F.R. § 204.5(h)(3)(iv), the Petitioner points to his graduate and undergraduate courses, practical training, and work for both [redacted]. The documentation presented, however, does not demonstrate that the Petitioner has participated, either individually or on a panel, as the judge of the work of others in the field of electrical engineering or an allied field.

With respect to the original contributions criterion at 8 C.F.R. § 204.5(h)(3)(v), the Petitioner offers documentation of his work involving development of a “high tech chip [redacted] process, an [redacted] prototype” battery module, a “[redacted] pressure theory,” water and lighting infrastructure, and [redacted] lamps. The Petitioner’s descriptions and photographs of his work are not sufficient to demonstrate its major significance in the field of electrical engineering. The Petitioner’s statements do not offer sufficiently detailed information, nor does the record include adequate corroborating documentation, to show the nature of specific “original contributions” that he has made to the field that have been considered to be of “major significance.” For instance, he did not offer evidence indicating that his prototypes and other developmental work have influenced the field of electrical engineering to the extent that they are of major significance in his field.

The Petitioner also provides new arguments and evidence under the membership criterion at 8 C.F.R. § 204.5(h)(3)(ii), the scholarly articles criterion at 8 C.F.R. § 204.5(h)(3)(vi), the leading or critical role criterion at 8 C.F.R. § 204.5(h)(3)(viii), and the high salary criterion at 8 C.F.R. § 204.5(h)(3)(ix). However, as the Petitioner did not submit these documents before the Director, either at the time he filed the petition or in response to the Director’s request for evidence, we will not consider these claims and documents in our adjudication of this motion. *See Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988) (providing that if “the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it for the record before the denial, we will not consider evidence submitted on appeal for any purpose” and that “we will adjudicate the appeal based on the record of proceedings” before the Chief); *see also Matter of Obaigbena*, 19 I&N Dec 533 (BIA 1988). The Petitioner does not adequately explain why he did not present these documents before the Director. Accordingly, we will not consider this evidence to determine his eligibility under the applicable criteria for the first time on motion.

Regardless, even if we were to consider the Petitioner’s new arguments and evidence, none of his documents offered on motion meet the requirements of the regulatory criteria at 8 C.F.R. § 204.5(h)(3)(ii), (vi), (viii), and (ix). For example, the Petitioner contends that his involvement in developing a University of [redacted] solar powered electric vehicle, a [redacted] charging device, a [redacted] Lamp, and a [redacted] cyber series lamp satisfy the membership criterion at 8 C.F.R. § 204.5(h)(3)(ii). This documentation, however, does not constitute evidence of association memberships. Without evidence indicating that the Petitioner is a member of an association requiring outstanding achievements and that admission to membership is judged by recognized national or international experts, the Petitioner has not established that he meets the requirements of the membership criterion. As evidence for the scholarly articles criterion at 8 C.F.R. § 204.5(h)(3)(vi), the Petitioner submitted a December 2015 [redacted]

Laboratory Final Report” he authored, but the documentation does not indicate that the article was in a professional or major trade publication or other form of major media as required by the criterion. With respect to the leading or critical role criterion at 8 C.F.R. § 204.5(h)(3)(viii), the Petitioner points to his product line setup and invoice system for [redacted] lights and [redacted] lights. He also discusses his work relating to the [redacted] wireless charger, the [redacted] plasma process, and the [redacted] Lamp prototype. The Petitioner’s evidence, however, does not show that his involvement in these projects demonstrates a leading or critical role for a distinguished organization. As evidence for the salary criterion at 8 C.F.R. § 204.5(h)(3)(ix), the Petitioner provided documentation relating to his interviews with Intel and NerdPower, invitations from prospective employers, a scholarship from [redacted] Pharmaceutical Production Company, and bank loans. This documentation, however, does not show that the Petitioner has commanded a high salary or significantly high remuneration relative to other electrical engineers.

The evidence on motion does not overcome our prior findings and demonstrate the Petitioner’s eligibility. The Petitioner has not satisfied the initial evidentiary requirements through evidence of a one-time achievement or meeting at least three of the evidentiary criteria at 8 C.F.R. § 204.5(h)(3). Nor has the Petitioner provided new facts to establish that we erred in dismissing the appeal. The scope of a motion is limited to “the prior decision” and “the latest decision in the proceeding.” 8 C.F.R. § 103.5(a)(1)(i), (ii). We will not re-adjudicate the petition anew. The underlying petition remains denied.

ORDER: The motion to reopen is dismissed.