U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 42796273

Date: MAY 18, 2026

Appeal of Service Center Operations (SCOPS) Decision

Form I-140, Immigrant Petition for Alien Workers (National Interest Waiver)

The Petitioner, an industrial machinery mechanic, seeks second preference immigrant classification as an individual of exceptional ability, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

SCOPS denied the petition, concluding the Petitioner did not establish that he was an individual of exceptional ability.[1] In addition, SCOPS concluded the Petitioner did not demonstrate his eligibility for a national interest waiver. The matter is now before us on appeal. 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

To qualify for the underlying EB-2 visa classification, a petitioner must establish they are an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Section 203(b)(2)(A) of the Act.

Exceptional ability means a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business. 8 C.F.R. § 204.5(k)(2). A petitioner must initially submit documentation that satisfies at least three of six categories of evidence. 8 C.F.R. § 204.5(k)(3)(ii)(A)-(F).[2] Meeting at least three criteria, however, does not, in and of itself, establish eligibility for this classification. *See generally* 6 USCIS Policy Manual F.5(B)(2), https://www.uscis.gov/policy-manual. If a petitioner does so, we will then conduct a final merits determination to decide whether the evidence in its totality shows that they are recognized as having the requisite degree of expertise and will substantially benefit

[1] The Petitioner did not claim to be, nor did the record show he held an advanced degree.

[2] If these types of evidence do not readily apply to the individual's occupation, a petitioner may submit comparable evidence to establish their eligibility. 8 C.F.R. § 204.5(k)(3)(iii).

the national economy, cultural or educational interests, or welfare of the United States. Section 203(b)(2)(A) of the Act.[3]

II. EXCEPTIONAL ABILITY

The Petitioner states that he is an industrial machine mechanic who earned a two-year degree as a technician in electromechanical maintenance in 2007. The Petitioner indicated that he worked at [redacted] in Brazil from 2008 to 2023 as a technician of electromechanical maintenance "coordinating and carrying out industrial assembly and maintenance, ensuring that procedures are in line with technical standards and specifications required by the manufacturer and the contracting client."

In denying the petition, SCOPS determined that the Petitioner met two of the six criteria for exceptional ability, namely the criterion at 8 C.F.R. § 204.5(k)(3)(ii)(A), related to him holding a degree; and the criterion at 8 C.F.R. § 204.5(k)(3)(ii)(B), specific to him having at least ten years of full-time experience in his occupation. However, SCOPS concluded that the Petitioner did not demonstrate he met the following asserted criteria: 1) 8 C.F.R. § 204.5(k)(3)(ii)(C), license to practice a profession; 2) 8 C.F.R. § 204.5(k)(3)(ii)(D), salary or renumeration indicative of exceptional ability; 3) 8 C.F.R. § 204.5(k)(3)(ii)(E), membership in a professional association; and 4) 8 C.F.R. § 204.5(k)(3)(ii)(F), recognition for achievements and significant contributions to the industry or field. On appeal, the Petitioner contends he demonstrated his eligibility under all the criteria discussed above.

> *A license to practice the profession or certification for a particular profession or occupation.* 8 C.F.R. § 204.5(k)(3)(ii)(C).

The Petitioner asserted that he met this criterion, pointing to a submitted professional identity card issued by the Federal Council of Industrial Technicians (CTF) in Brazil reflecting his registration and status as an industrial technician and his asserted qualification as a technician in electromechanical maintenance. The Petitioner stated that this represented an active professional license required to lawfully perform industrial electromechanical work in Brazil. The Petitioner also emphasized a resolution issued by the CTF stating that it "formally establishes the eligibility of Industrial technicians with a diploma or technical certificate, including [a] Technician in Electromechanical, to obtain professional registration. The Petitioner asserted that he falls within a regulated field requiring registration to practice in Brazil.

In concluding that the Petitioner did not establish this criterion, SCOPS emphasized the Petitioner did not demonstrate he held a valid license to practice his profession within the state of Florida where he was

[3] If a petitioner establishes eligibility for the underlying EB-2 classification, they must then demonstrate that they merit a discretionary waiver of the job offer requirement "in the national interest." Section 203(b)(2)(B)(i) of the Act. *Matter of Dhanasar*, 26 I&N Dec. 884, 889 (AAO 2016), provides the framework for adjudicating national interest waiver petitions. *Dhanasar* states that U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,[3] grant a national interest waiver if the petitioner demonstrates that:

- The proposed endeavor has both substantial merit and national importance;
- The individual is well-positioned to advance their proposed endeavor; and
- On balance, waiving the job offer requirement would benefit the United States.

Id.

then residing at the time the petition was filed. SCOPS acknowledged that the Petitioner's registration constituted an operative license in Brazil but concluded it did not establish that this was recognized by a U.S. licensing body. SCOPS discussed the Petitioner's presence in the United States on an F-2 nonimmigrant visa since November 2023 and indicated that he was not issued a license in the United States. On appeal, the Petitioner contends that the criterion does not require U.S work authorization or a current ability to practice under U.S. licensing laws. The Petitioner again asserts that his professional identity card issued by the CTF in Brazil represents a license to practice his profession and fulfills this criterion.

First, we agree with the Petitioner that there is no requirement under this criterion that he be licensed in the United States. A foreign license to practice a profession may meet the requirements of this criterion. However, the Petitioner has not demonstrated that his industrial technician position abroad is a profession. As noted by SCOPS, the regulation at 8 C.F.R. § 204.5(k)(2) defines "profession" as any occupation for which a U.S. baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation. The Petitioner submitted Brazilian legislation (Law No. 5,524 of November 5th, 1968) covering the registration of those practicing "the profession of Mid-Level Industrial Technician" indicating this requires an individual to "have completed one of the courses of the second cycle of technical industrial education, [and] have been granted a diploma" or "after a regular course valid for the practice of the profession, have been granted a diploma by a foreign technical industrial school or institute and had their degree revalidated in Brazil."

First, it is not clear that the Petitioner's claimed licensure under the requirements of a "Mid-Level Industrial Technician" represents licensure in his profession reflected in the Form I-140 Immigrant Petition for Alien Workers, industrial machinery mechanic. Regardless, the provided legislation from Brazil relevant to the Petitioner's claimed professional license clearly indicates that a foreign baccalaureate degree is not required to register. The Petitioner also pointed to a resolution issued by the CTF related to registration of industrial technicians stating that they can do so "with a diploma or technical certificate." Notably, the Petitioner completed a two-year program and received a diploma denoting "the professional qualification of: Technician in Electromechanical Maintenance." However, this is not reflective of the equivalent of a four-year U.S. baccalaureate degree, and he has otherwise not established that registration with the CTF as a mid-level industrial technician requires this level of education. Therefore, for the foregoing reasons, the evidence does not establish the Petitioner meets this criterion.

> *Evidence that the individual has commanded a salary, or other remuneration for services, which demonstrates exceptional ability.* 8 C.F.R. § 204.5(k)(3)(ii)(D)

The Petitioner stated he would be employed in the United States as an industrial machinery mechanic, and in part 6, item 8 "wages" in the petition, he did not disclose his salary or remuneration in the United States. The Petitioner submitted a letter from his employer in Brazil showing that from October 2008 to November 2023 his monthly earnings progressed from 2200 [Brazilian Reals] BRL to 6800 BRL while employed as an electromechanical maintenance technician working 40 hours per week. The Petitioner also emphasized an additional bonus paid by his employer in 2022 in the amount of 50,000 BRL. The Petitioner pointed to a salary report for "maintenance technicians" in Brazil from 2025 showing that based on 238 salaries reported in September 2024 their average salary was 4000 BRL per month, with a typical range from 3000 BRL to 5000 BRL. The Petitioner indicated that it

was evident that his renumeration materially exceeded that ordinarily paid to professionals in similar positions in Brazil.

SCOPS concluded that although the evidence showed that the Petitioner's salary increased over time, it did not establish he commanded renumeration indicative of exceptional ability. SCOPS reasoned that although his salary exceeded the cited average from the Glassdoor report, it fell within the broader spectrum of reported compensation, particularly when considering variable compensation. SCOPS also stated that the Petitioner did submit evidence establishing that similarly qualified professionals earned materially less or evidence linking higher compensation directly to exceptional expertise, unique skills, or uncommon professional distinction.

On appeal, the Petitioner asserts that the existence of variable compensation in the occupation does not negate the significance of his base salary exceeding the upper base salary reflected in the Glassdoor report. The Petitioner also states that SCOPS did not sufficiently consider his bonus payment in 2022. In addition, the Petitioner indicates that a provided letter from his employer states that his salary increases over time were "performance-based salary adjustments" showing that they resulted from his performance and tied to how the employer valued his services.

Upon review, the Petitioner has not sufficiently established that he commanded a salary, or other remuneration for his services, demonstrating exceptional ability. First, the Petitioner stated that he was employed as an electromechanical maintenance technician with his employer abroad, while the provided Glassdoor evaluation is applicable to only "maintenance technicians." Therefore, it is not sufficiently clear whether the Petitioner's position abroad is the equivalent of this provided salary range; for instance, his specialty could be reflective of a different salary range. Further, the printout from Glassdoor does not indicate how experience impacts the average monthly salary of a maintenance technician and only provides general information on the average salaries of all maintenance technicians, rather than a specific position within that field. As such, the Petitioner has not sufficiently demonstrated the applicable average annual salary given his level of experience in Brazil, and in turn, whether his income demonstrates exceptional ability. Likewise, the Petitioner points to a bonus of 50,000 BRL he received in 2022 but does not indicate how this would set him apart from others in his field to reflect that his expertise is significantly above that of those similarly placed in his field.

As discussed, SCOPS indicated that the Petitioner did not submit evidence establishing that similarly qualified professionals earned materially less or evidence linking higher compensation directly to exceptional expertise, unique skills, or uncommon professional distinction. Notably, the Petitioner did not submit additional evidence to support the exceptional nature of his salary when compared to similarly placed electromechanical maintenance technicians. The Petitioner must resolve ambiguities in the record with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Therefore, for the foregoing reasons, we agree with SCOPS that the submitted evidence does not establish that the Petitioner commanded a salary demonstrating exceptional ability and eligibility under the criterion at 8 C.F.R. § 204.5(k)(3)(ii)(D).

Evidence of membership in professional associations. 8 C.F.R. § 204.5(k)(3)(ii)(E)

The Petitioner contends that his membership as an associate member in the Institute of Electrical and Electronics Engineers (IEEE) and his membership in the American Society of Mechanical Engineers

(ASME) satisfies this requirement. SCOPS determined that the Petitioner did not submit evidence to establish that these were professional associations requiring a U.S. baccalaureate degree or its foreign equivalent as a minimum entry requirement.

On appeal, the Petitioner asserts that SCOPS overlooked IEEE's status as a "technical professional association" and the ASME as a "professional technical organization," both devoted to the field of engineering. The Petitioner submits the IEEE's code of ethics on appeal and asserts this reflects that they are bound by "formal ethical principles regulating professional conduct, integrity, and accountability." The Petitioner contends that they are "professional bodies serving occupations that fit within the regulatory concept of profession," rather than "generic clubs that any layperson might join."

The regulations are clear, this criterion requires evidence of "membership in professional associations" and "profession" is defined as the occupations listed in section 101(a)(32) of the Act, as well as any occupation for which a United States baccalaureate degree or its foreign equivalent is the minimum requirement for entry into the occupation.[4] However, the Petitioner has not asserted, and the record does not otherwise demonstrate, that the IEEE or ASME require its members to possess the equivalent of a U.S. bachelor's degree. In fact, the Petitioner refuses to articulate and properly document the bylaws or the requirements for membership in either organization. Consequently, the Petitioner has not shown that they are professional associations within the meaning of the regulations at 8 C.F.R. § 204.5(k)(2) and (3)(ii)(E). As such, the Petitioner has not demonstrated he meets this criterion.

> *Evidence of recognition for achievements and significant contributions to the industry or field by peers, government entities, or professional or business organizations.* 8 C.F.R. § 204.5(k)(3)(ii)(F).

SCOPS concluded that the Petitioner did not meet this criterion, reasoning that submitted letters of support did not reflect he received recognition for achievements and significant contributions, or that he was exceptional in his field. SCOPS determined that the letters from his colleagues were general and did not sufficiently detail the work he had completed.

On appeal, the Petitioner again points to evidence of recognition he received in 2005 from [redacted] for his participation in a door automation project at this institution's "Science Fair and Cultural Week" resulting "in a 21 percent increase in operational efficiency." The Petitioner also emphasizes letters submitted from his colleagues including one from January 2020 from Mr. A-A-M-, a manager at [redacted], explaining the Petitioner being "decisive in a complex intervention" involving the "removal and installation of turbines and the precision correction of bases using specialized instruments" leading to "the reuse of 40 percent of hydraulic cooling piping." Likewise, the Petitioner points to a letter from Mr. E-D-Q- a partner-owner at [redacted] describing his role on the [redacted] and the Petitioner's "significant contributions" in aligning and leveling 80% of the "high and low rotation pumps and coordination of installation of turbines, reducers, and hydraulic lubrication systems." The Petitioner similarly discussed a letter from Mr. J-D-M-L-P-, mechanical technician, who referred to the Petitioner's work on the [redacted] project in February 2012 and his "innovative contribution" where he

[4] Profession shall include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries. Section 101(a)(32) of the Act.

"developed specific tools for bending pressure tubes" leading to 23% savings in hydraulic connections. Yet another support letter from Mr. C-M- details the Petitioner's "design, coordination, and implementation of a complex hydraulic oil flow pressurization system for sugar mill equipment resulting in "a reduction of unplanned downtime by more than 50 percent and annual savings of BRL 1,000,000." He also emphasizes technical and assembly reports issued by plants and companies he asserts reflect recognition for his achievements. The Petitioner contends that these represent names, locations, projects, roles, methods, and specific results, or the very definition of peer recognition.

First, it is not clear how the Petitioner's participation in the "1st Science Fair" and "Cultural Week" while enrolled in school to become a technician in 2005 represents recognition for achievement or a significant contribution to his field. In fact, at the time, the Petitioner was not yet a member of the field, having not completed his education or began his work in the field. In addition, the technical reports provided by the Petitioner are only reflective of the objective results of his work, rather than recognition from others in the field for achievement or a significant contribution. For instance, one "Hydraulic Assembly Technical Report" from 2012 discusses "the work carried out on the components of the mill suits" along with photographs and data.

Further, we agree with SCOPS that the letters provided do not sufficiently demonstrate the Petitioner's recognition for achievements and significant contributions to his field. First, the letters highlight the Petitioner's completion of projects for his employer rather than his achievements and significant contributions to his field. The letters discuss his completion of duties and projects for his employer as well as stated measurable achievements resulting from them, such as savings and reductions in downtime. However, these are not clearly defined achievements or contributions to the overall field. For example, the support letter from Mr. C-M- details the Petitioner's "reduction of unplanned downtime by more than 50 percent and annual savings of BRL 1,000,000." Again, this reflects the completion of his duties for his employer and an immediate result for a client, rather than recognition in the field. For instance, it is not clear how savings of 1,000,000 BRL for one client is representative of a greater achievement or significant contribution to the field in general, otherwise anyone completing projects and achieving results for their employer would be deemed eligible under this criterion. The letters did not explain in detail the techniques developed by the Petitioner, how they were different than those applied before, how they significantly impacted the field or industry and is there no documentary support that his work was widely cited or implemented in his field. In sum, the letters describe the Petitioner as a valued employee and colleague, making positive contributions to his client operations. However, these letters do not indicate that the Petitioner was recognized for his achievements and significant contributions to his industry or field.

For the reasons set forth above, the evidence does not establish that the Petitioner satisfies at least three of the criteria at 8 C.F.R. § 204.5(k)(3)(ii) and achieved the level of expertise required for exceptional ability classification. In addition, because he has not satisfied at least three criteria, we will not disturb the Director's final merits determination the Petitioner did not demonstrate, in the totality, that he is recognized as having a degree of expertise significantly above that ordinarily encountered in the field. Furthermore, as the Petitioner has not met the threshold requirement for this classification, an analysis of the Director's conclusions as to the Petitioner's eligibility for a national interest waiver would also serve no meaningful purpose.

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.