



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

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

In Re: 28785844

Date: NOV. 13, 2023

Appeal of California Service Center Decision

Form I-360, Petition for Special Immigrant Religious Worker

The Petitioner, a religious organization, seeks to classify the Beneficiary as a special immigrant religious worker to perform services as a minister. *See* Immigration and Nationality Act (the Act) section 203(b)(4), 8 U.S.C. § 1153(b)(4). This immigrant classification allows non-profit religious organizations, or their affiliates, to employ foreign nationals as ministers, in religious vocations, or in other religious occupations, in the United States. *See* Section 101(a)(27)(C)(ii) of the Act, 8 U.S.C. § 1101(a)(27)(C)(ii).

The Director of the California Service Center denied the petition, concluding that the Beneficiary does not possess the requisite two-year qualifying religious work experience and that the Petitioner satisfactorily completed the compliance site visit. 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

Non-profit religious organizations may petition for foreign nationals to immigrate to the United States to perform full-time, compensated religious work as ministers, in religious vocations, or in other religious occupations. The petitioning organizations must establish that the foreign national beneficiary meets certain eligibility criteria, including membership in a religious denomination and continuous religious work experience for at least the two-year period before the petition filing date. Foreign nationals may self-petition for this classification. *See generally* section 203(b)(4) of the Act (providing classification to qualified special immigrant religious workers as described in section 101(a)(27)(C) of the Act).

The regulation at 8 C.F.R. § 204.5(m) provides, in pertinent part, that in order to be eligible for classification as a special immigrant religious worker, a foreign national must:

(2) Be coming to the United States to work in a full time (average of at least 35 hours per week) compensated position in one of the following occupations as they are defined in paragraph (m)(5) of this section:

- (i) Solely in the vocation of a minister of that religious denomination;
- (ii) A religious vocation either in a professional or nonprofessional capacity; or
- (iii) A religious occupation either in a professional or nonprofessional capacity.

....

(4) Have been working in one of the positions described in paragraph (m)(2) of this section, either abroad or in lawful immigration status in the United States,¹ and after the age of 14 years continuously for at least the two-year period immediately preceding the filing of the petition. The prior religious work need not correspond precisely to the type of work to be performed.

The regulation at 8 C.F.R. § 204.5(m)(11) addresses the evidentiary requirements to establish prior religious work experience. It provides:

(11) *Evidence relating to the alien's prior employment.* Qualifying prior experience during the two years immediately preceding the petition or preceding any acceptable break in the continuity of the religious work, must have occurred after the age of 14.... If the alien was employed in the United States during the two years immediately preceding the filing of the application and:

- (i) Received salaried compensation, the petitioner must submit IRS documentation that the alien received a salary, such as an IRS Form W-2 or certified copies of income tax returns.
- (ii) Received non-salaried compensation, the petitioner must submit IRS documentation of the non-salaried compensation if available.
- (iii) Received no salary but provided for his or her own support, and provided support for any dependents, the petitioner must show how support was maintained by submitting with the petition additional documents such as audited financial statements, financial institution records, brokerage account statements, trust documents signed by an attorney, or other verifiable evidence acceptable to USCIS.

¹ U.S. Citizenship and Immigration Services (USCIS) no longer requires that the qualifying religious work experience for the two-year period, described in 8 C.F.R. § 204.5(m)(4) and (II), be in lawful immigration status. See USCIS Policy Memorandum PM-602-0119 *Qualifying U.S. Work Experience for Special Immigrant Religious Workers 2* (July 5, 2015), http://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2015/2015-0705_Lawful_Status_PM_Effective.pdf (USCIS Policy Memorandum PM-602-0119).

The regulation also requires submission of evidence relating to the qualification of a minister, such as a copy of an ordination certificate or similar documents reflecting acceptance of the beneficiary's qualifications in the religious denomination, as well as any evidence showing completed courses for theological education including transcripts, curriculum, and documentation that establishes that the theological institution is accredited by the denomination. 8 C.F.R. § 204.5(m)(9)(i)-(ii). A petitioner in denominations that do not require a prescribed theological education can submit evidence of denomination's requirements of ordination to the minister as well as duties allowed to be performed by the virtue of ordination, levels of ordination, if any, and completion of the denomination's requirements of ordination. 8 C.F.R. § 204.5(m)(9)(iii).

II. ANALYSIS

The record shows that the Beneficiary has an approved R-1 nonimmigrant visa petition valid from December 21, 2020, to June 20, 2023. Based on this petition, the Beneficiary was issued a temporary religious worker visa on May 21, 2021, and entered the United States on June 5, 2021. On December 6, 2022, the Petitioner filed the instant petition to obtain the special immigrant religious worker classification for the Beneficiary as a minister.

We will first evaluate whether the Petitioner demonstrated that the Beneficiary has the qualifying two years of continuous work experience immediately preceding the filing of this petition, from December 2020 to December 2022. The regulations require that the qualifying two years of work experience must be both full-time and compensated. 8 C.F.R. 204.5(m)(2), (4). The regulations further require the Petitioner to submit evidence of salaried or non-salaried compensation with verifiable IRS documentation for the qualifying experience occurred in the United States. 8 C.F.R. § 204.5(m)(11). If the beneficiary was employed outside the United States during the qualifying two years, the petitioner must submit comparable evidence of the religious work. *Id.*

Upon de novo review, we conclude that the record contains verifiable IRS documentation showing that the Petitioner compensated the Beneficiary since June 2021 but lacks verifiable documentation showing that the Beneficiary worked full time and received compensation from December 2020 to June 2021, prior to the Beneficiary's entry into the United States.

The initial petition contains copies of the Beneficiary's monthly paychecks from March 2022 through October 2022, the Petitioner's bank statements from June 2022 to July 2022, and utility bills from June 2022 to July 2022, and weekly financial reports for 2021 and 2022 signed by the signatory. In issuing a notice of intent to deny (NOID), the Director deemed these documents insufficient to demonstrate two years of full time, compensated work experience. In response to the NOID, the Petitioner submitted a letter dated April 25, 2023, stating that "the petitioner has included documentation to show they supported [the Beneficiary] for the required two year period" and provided the Beneficiary's 2022 and 2021 U.S. tax returns and his bank statements from June 2021 to December 2022. In addition, the Petitioner provided copies of handwritten financial ledger "showing that [the Petitioner's] income and money set aside for [the Beneficiary]" from December 2020 to April 2023.

The Director determined that the Petitioner's handwritten ledger and weekly financial reports signed by the signatory of the petition, are internal documents that require verification through other objective

and independent evidence. The Director then denied the petition concluding that the Beneficiary's tax returns are not certified as received by the Internal Revenue Service (IRS) and fail to verify the internal financial documents submitted by the Petitioner. On appeal, the Petitioner submits the Beneficiary's 2022 IRS tax transcripts but claims that it could not obtain 2021 tax transcripts. Instead, the Petitioner offers first two pages of the Beneficiary's 2021 tax returns stamped by the IRS on May 31, 2023.²

The issue here is whether the Petitioner provided verifiable documentation showing that the Beneficiary worked full time and received compensation from December 2020 to June 2021. The Petitioner must submit comparable evidence of the Beneficiary's religious work abroad according to 8 C.F.R. § 204.5(m)(11). However, the stamped pages of the 2021 U.S. tax returns do not prove that the Beneficiary was employed full time and compensated from December 2020 to June 2021 as the record indicates that the Beneficiary was not in the United States during this time.

The Petitioner claims on appeal that "there is no paper trail to show compensation from December 2020 to June 2021" as "the church initially paid the Beneficiary in cash." At the same time, the Petitioner asserts that the handwritten financial ledger entries submitted in response to the Director's NOID show that the Petitioner compensated the Beneficiary from December 2020 to June 2021. We note that the handwritten ledger entries contain weekly line items, such as the offerings received and the payments purportedly allocated to its pastors, beginning on December 27, 2020. The Petitioner emphasizes that these entries "were done over time and not something fabricated for the purpose of filing the I-360" and "[t]he ledger even shows an entry from the last week in December."

However, we find it inconsistent that the handwritten ledger entries would include money set aside or paid to the Beneficiary from December 2020 through May 2021 when the Beneficiary was not in the United States. The case *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988), notes that "it is incumbent upon the petitioner to resolve the inconsistencies by independent objective evidence" and that "[a]ttempts to explain or reconcile the conflicting accounts, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice." Here, the Petitioner has not claimed that a portion of these entries are from abroad nor explained how handwritten entries made in the United States verify the Beneficiary's compensation and work from abroad. Aside from these ledgers, the Petitioner has not submitted other verifiable documentation from abroad to show that the Beneficiary worked full time and received compensation prior to entering the United States in June 2021. Unresolved material inconsistencies may lead us to reevaluate the reliability and sufficiency of other evidence submitted in support of the requested immigration benefit. *Id.*

As the Petitioner has not resolved the discrepancy, the record is insufficient in providing independent and objective evidence regarding the Beneficiary's employment abroad as a religious worker from December 2020 to June 2021. Therefore, we conclude the Petitioner did not demonstrate that the Beneficiary has the required two years of experience in a compensated position during the period immediately preceding the filing of this petition. 8 C.F.R. 204.5(m)(2), (4).

We also find, upon de novo review, that the record does not establish the Beneficiary's qualification as a minister. The regulation at 8 C.F.R. § 204.5(m)(9) requires the Petitioner to submit evidence of

² The Beneficiary's 2021 tax returns stamped by IRS postdate the Director's decision issued on April 28, 2023, and the Petitioner has not explained why the Beneficiary did not timely file the 2021 tax returns.

the denomination's prescribed theological education requirements or, for those without prescribed educational requirements, evidence of the denomination's ordination requirements. The Petitioner has not stated whether or not they have prescribed educational requirements and the record does not contain evidence of either prescribed educational requirement or other ordination requirements. We note that the Beneficiary was ordained as a minister on April 19, 2005, almost 10 years prior to completing his theological education on January 23, 2015. Although the Petitioner claimed that the Beneficiary's proffered position is that of an ordained pastor,³ it has not submitted sufficient evidence to satisfy the requirements of the regulations and demonstrate by a preponderance of the evidence that the Beneficiary qualifies as a minister according to the denomination's standards.

In addition, the Director determined that the Petitioner did not satisfactorily complete a site inspection which took place on November 14, 2019. As discussed above, we conclude the Petitioner did not demonstrate that the Beneficiary possessed the requisite two years of full time, compensated work experience and that the Beneficiary has the qualifications as an ordained minister. As the Petitioner has not established eligibility for the benefit, we decline to reach any conclusion on the Petitioner's satisfactory completion of a compliance site visit pursuant to 8 C.F.R. § 204.5(m)(12) as it would not change the outcome of the appeal. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (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).

III. CONCLUSION

The Petitioner has not established, by a preponderance of the evidence, its eligibility to classify the Beneficiary as an immigrant religious worker. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. It is the Petitioner's burden to establish eligibility for the immigration benefit sought. Here, that burden has not been met.

ORDER: The appeal is dismissed.

³ On Form I-360, Petitioner for Special Immigrant Religious Worker, the Petitioner indicated that the Beneficiary's title is "National Pastor" and his qualifications for the position are: "Pastor of numerous churches in Nigeria and other countries; BA in Theology; Ordained."