



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

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

In Re: 25034254

Date: FEB. 07, 2023

Appeal of California Service Center Decision

Form I-360, Petition for Special Immigrant Religious Worker

The Petitioner seeks classification as a special immigrant religious worker to perform services as a youth pastor. This fourth preference 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. Immigration and Nationality Act (the Act) section 203(b)(4), 8 U.S.C. § 1153(b)(4).

The Director of the California Service Center denied the petition, concluding that the record did not establish that the Petitioner had worked as a religious worker for the two years immediately preceding the filing of the petition. 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, or a foreign national may petition on their own behalf, to immigrate to the United States to perform full-time, compensated religious work as ministers, in religious vocations, or in religious occupations. The foreign national must meet 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. *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, 8 U.S.C. § 1101(a)(27)(C)).

Specifically, the foreign national must have been working continuously in a full time, compensated status in one of the three types of qualifying positions, either in the United States or abroad, for at least the two-year period immediately preceding the filing of the petition. If the foreign national gained this experience in the United States, the evidence of their work experience must show that they received salaried compensation, non-salaried compensation, or provided for their own support and that of any dependents. 8 C.F.R. §§ 204.5(m)(4), (11).

II. ANALYSIS

The Petitioner seeks to work as a youth pastor at [REDACTED] at its church in [REDACTED] Florida. The Director denied the petition on a single ground, that the Petitioner did not establish that he had the required two years of work experience immediately preceding the filing of the petition in a qualifying petition. On appeal, the Petitioner asserts that the Director erred in stating the relevant dates of this period, which should have been from March 14, 2020 to March 14, 2022. We agree that this is the period during which his qualifying work experience must be established.

Regarding the evidence of this work experience, the Petitioner refers to a new notarized statement from the pastor at [REDACTED] which states that he worked as a minister “on a full-time basis with non-salary compensation” there from December 15, 2019 to February 11, 2022, and that since that date he has worked as a youth pastor full-time, earning a salary of \$2400 per month. These statements mirror those previously made by the pastor of the [REDACTED] church in a letter submitted in response to the Director’s request for evidence. However, we note that neither statement describes the form or amount of non-salary compensation the Petitioner received during this period. In addition, the regulation at 8 C.F.R. § 204.5(m)(11)(ii) states that IRS documentation, if available, must be submitted as evidence of non-salary compensation. The record includes copies of the Petitioner’s 2020 and 2021 federal income tax returns, as well as his 2021 Form W-2, but these do not verify his receipt of non-salary compensation from [REDACTED]

On appeal, the Petitioner asserts that he supported himself during this period in accordance with the provision at 8 C.F.R. § 204.5(m)(11)(iii). But this directly contradicts the two statements mentioned above. The Petitioner must resolve this inconsistency 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). As mentioned above, the record lacks IRS documentation which verifies his receipt of non-salary compensation from [REDACTED]. However, the evidence that the Petitioner refers to to establish that he supported himself also does not sufficiently verify that he continuously worked for [REDACTED] full-time during the relevant two-year period.

Specifically, the Petitioner’s tax returns and W-2 statement indicate that he was employed as an office manager for a different employer in 2020 and 2021, earning approximately \$40,000 and \$17,000, respectively. The Petitioner asserts that this employment was part-time and pursuant to optional practical training in conjunction with his F-1 student nonimmigrant status, while he worked full-time at [REDACTED]. However, we note that school transcripts show that he was also taking three classes per semester during most of this period. The record does not sufficiently support his assertion that he worked full-time at [REDACTED] while also working a part-time job and studying and attending classes.

In addition, while the letters from [REDACTED] indicate that the Petitioner began working full-time for the [REDACTED] church beginning on February 12, 2022, the record lacks IRS documentation of his salaried employment between that date and March 14, 2022.

For all of the reasons given above, the Petitioner has not demonstrated that he was continuously employed in a full-time position as a religious worker for the two years immediately preceding the filing of his petition, and he therefore is not eligible for the requested classification. His petition will remain denied.

ORDER: The appeal is dismissed.