



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

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

In Re: 24562665

Date: MAR. 8, 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 pastor. *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 Petitioner had not satisfactorily completed a compliance review inspection and failed to overcome credibility issues raised in the site visit. *See* 8 C.F.R. § 204.5(m)(12). 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)(12) describes USCIS site visits:

Inspections, evaluations, verifications, and compliance reviews. The supporting evidence submitted may be verified by USCIS through any means determined appropriate by USCIS,

up to and including an on-site inspection of the petitioning organization. The inspection may include a tour of the organization's facilities, an interview with the organization's officials, a review of selected organization records relating to compliance with immigration laws and regulations, and an interview with any other individuals or review of any other records that the USCIS considers pertinent to the integrity of the organization. An inspection may include the organization headquarters, or satellite locations, or the work locations planned for the applicable employee. If USCIS decides to conduct a pre-approval inspection, satisfactory completion of such inspection will be a condition for approval of any petition.

II. ANALYSIS

As discussed in the Director's decision, a USCIS officer conducted a telephonic inquiry on March 14, 2022, and a site visit on April 12, 2022. During the on-site inspection, a USCIS officer could not make contact with anyone from the organization and observed that the organization's location at [REDACTED] is a single-family home. Several days after the site visit, a USCIS officer spoke on the phone with [REDACTED], the vice president of the organization and the signatory's sister, who stated that the religious services were not being held at the location as the organization has not been opened yet. On June 24, 2022, the Director issued a notice of intent to deny (NOID) providing the Petitioner an opportunity to demonstrate the petition's eligibility and explain discrepancies related to the site visit. The Petitioner submitted in response, along with other documents, a lease agreement showing that the Petitioner moved to a new location and stated that: "[r]eligious services are not being held to date in the United States since the church has not yet been opened." The Director denied the petition for failure to satisfactorily complete the site inspection and did not address the additional evidence submitted by the Petitioner in the decision.

On appeal, the Petitioner does not contest the Director's finding or allege any error by the Director. The Petitioner admits that the address [REDACTED] is a residence for the organization's two officials, [REDACTED] and confirms that the organization's headquarter has a new address, [REDACTED].¹ The Petitioner resubmits the lease agreement executed in July 2022, and introduces as new evidence, a corporation change of address filed in August 2022 and some photographs.

We affirm the Director's decision and will dismiss the appeal. The Petitioner previously acknowledged that the organization was not opened for congregational activities or services at the address identified on the petition. The subsequent submission on appeal also does not overcome the unsatisfactory site inspection. The lease agreement and the change of address filing indicate that the Petitioner relocated just months after the site inspection. The photographs depict what appear to be the exterior of the building and worships services held at the new location, but they lack context and sufficient corroboration to show that the organization was operating at the address shown in the petition at the time of site inspection.

¹ The Petitioner indicates on its appeal letter that the address is "[REDACTED]" but the commercial lease refers to "[REDACTED]" and the corporation change of address filing shows the mailing address as "[REDACTED]".

The regulation specifies that if USCIS conducts a pre-approval inspection, satisfactory completion of the inspection will be a condition for the petition's approval. *See* 8 C.F.R. § 204.5(m)(12). In this case, the Petitioner has not resolved the discrepancies raised in the site inspection with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Therefore, we find that the Petitioner has not satisfactorily completed a pre-approval inspection and its petition is not approvable pursuant to 8 C.F.R. § 204.5(m)(12).

III. CONCLUSION

We find that the Petitioner has not established, by a preponderance of the evidence, its eligibility to classify the Beneficiary as an immigrant religious worker. It is the Petitioner's burden to establish eligibility for the immigration benefit sought. Here, the Petitioner has not met this burden.

ORDER: The appeal is dismissed.