



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

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

In Re: 26529989

Date: SEP. 14, 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. 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).

Specifically, the regulation at 8 C.F.R. § 204.5(m)(4) requires the petitioner to demonstrate that the beneficiary has worked “in one of the positions described in [8 C.F.R. § 204.5(m)(2)] . . . for at least the two-year period immediately preceding the filing of the petition” either abroad or in the United States.

Under 8 C.F.R. § 204.5(m)(2), qualifying experience is “a full time (average of at least 35 hours per week) compensated position in one of the following occupations”:

- (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.

The regulation 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).

The regulation at 8 C.F.R. § 204.5(m)(11) addresses the evidentiary requirements to establish prior religious work experience and provides that qualifying prior experience can be shown by submitting IRS documentation of salaried compensation or non-salaried compensation, or comparable evidence of the religious work if employed outside the United States.

II. ANALYSIS

The Director issued a request for evidence (RFE) in this case because the Petitioner did not submit the required initial evidence. The Petitioner responded to the RFE with supporting documentation including letters attesting to the Beneficiary’s two-year membership in the church and qualifying two years of religious work experience, proof of the Beneficiary’s ordination as a minister, and the Petitioner’s intent to compensate the Beneficiary. The Director denied the petition after determining that record did not demonstrate the Beneficiary has the full-time, compensated religious work for the qualifying two years.

On appeal, the Petitioner claims that the evidence submitted in response to the Director’s RFE sufficiently show that the Beneficiary has the required two years of religious experience. The Petitioner, however, does not submit any new evidence or specifically identifies legal errors made by the Director. Upon de novo review, we agree with the Director’s finding pursuant to 8 C.F.R. § 204.5(m)(4).

The petition was filed on March 14, 2022. The Petitioner must demonstrate that the Beneficiary has been working in a full time, compensated position for the two years immediately preceding the filing of the petition, from March 14, 2020, to March 13, 2022.

The Petitioner claims on appeal that evidence of non-salaried compensation for the qualifying two years is not available because the Beneficiary worked in Ghana where “non-salaried cash

compensation . . . is acceptable” and due to the nature of “charismatic-style of church functions which one has to investigate to understand.” Religious organizations, whether charismatic or non-charismatic, can freely provide any type of non-salaried compensation to their religious workers. But in order to qualify for a secular, government benefit under the immigration laws of the United States, the Petitioner must provide corroborating evidence of such non-salaried compensation, whether abroad or in the United States, pursuant to 8 C.F.R. § 204.5(m)(11).

The Petitioner contends that it provided a copy of mortgage statement as evidence of housing to the Beneficiary. The record shows a one-page mortgage statement dated September 9, 2022, concerning a property located at [REDACTED]¹ However, this document relates to evidence of future compensation per 8 C.F.R. § 204.5(m)(10) and does not demonstrate the Beneficiary’s prior religious work experience pursuant to 8 C.F.R. § 204.5(m)(11). The mortgage statement from September 2022 falls outside the qualifying two years and the Petitioner has not shown that the Beneficiary resided at this address while performing religious work from March 2020 to March 2022.

As the non-existence or other unavailability of required evidence creates a presumption of ineligibility. 8 C.F.R. § 103.2(b)(2)(i), the Petitioner must rebut this presumption with other secondary sources or sworn affidavits by persons who are not parties to the petition who have direct personal knowledge of the event and circumstances. *Id.* Here, the petition’s signatory, [REDACTED] who resides in the United States, provided letters attesting to the Beneficiary’s prior religious experience in Ghana, but the signatory does not explain how he has personal knowledge of the Beneficiary’s work experience abroad. The Petitioner also submitted a one-page letter from [REDACTED] who attests that the Beneficiary has been a member of the organization for last three years, but the letter does not explain the individual’s connection with the organization or the Beneficiary other than that he “met [the Beneficiary] in person while on vacation in Ghana and communicate on phone on regular basis.” The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

Furthermore, the signatory’s support letter dated October 16, 2022, states that the Beneficiary has been serving as the “church International Liaison” for last ten years but does not provide any details regarding the Beneficiary’s work experience, such as specific duties, work hours, and work locations. The appointment letter dated January 1, 2012, also written by the signatory, states that the Beneficiary was appointed as “International Liaison for the [REDACTED]” and provides some detail about the position, that it is a 40-hours per week service with “a monthly compensation/allowance of Ghc 350.00 (\$183.00).” However, this 2012 appointment letter, purportedly assigning the Beneficiary to work in Ghana, includes an inconsistent statement regarding the Beneficiary’s immediate move to the headquarters in New York. The Petitioner must resolve inconsistencies 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). Unresolved material inconsistencies may lead us to reevaluate the reliability and sufficiency of other evidence submitted in support of the requested immigration benefit.

¹ The Petitioner did not indicate in its initial filing that the Beneficiary’s work location included this specific address in [REDACTED] New York.

For these reasons, the Petitioner has not demonstrated that the Beneficiary possesses the required two years of full-time, compensated religious work experience immediately preceding the filing of the petition. 8 C.F.R. § 204.5(m)(4).

We also find that the record doesn't establish the Beneficiary's qualification as a minister. The Petitioner submitted a certificate showing that the Beneficiary was ordained as a minister on August 11, 2010.² However, the record does not contain any official documentation showing that the Beneficiary possesses qualifications or received training for a minister, such as transcripts, curriculum or other documentation according to the denominational standards pursuant to 8 C.F.R. § 204.5(m)(9).³ The Petitioner also does not argue that the church's denomination does not require a prescribed theological education and has not offered evidence of the denomination's requirements of ordination to be a minister, duties allowed to be performed by the virtue of ordination, levels of ordination, or completion of the denomination's requirements of ordination. *Id.* Therefore, the Petitioner has not demonstrated that the Beneficiary is an ordained minister and a member of clergy.

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, that burden has not been met.

ORDER: The appeal is dismissed.

² The Beneficiary's baptismal certificate shows that he was baptized on August 10, 2010. Based on his baptism and ordination certificates, the Beneficiary was ordained as a minister only a day after his baptism into his religious faith. The record does not provide any explanation or church guidelines allowing ordination of ministers immediately upon baptism without further religious training.

³ The Petitioner stated on the petition (Part 2, Item 1D, on page 2 of Form I-360), that the Beneficiary will work as a minister. However, later in the attestation section (Part 9, Item 6B, on page 10 of Form I-360), the Petitioner states that the Beneficiary will be working as both a minister and in a religious occupation. These are two distinct categories of a religious worker, and each category has specific eligibility requirements. Here, the record does not provide sufficient evidence that the Beneficiary meets either of the categories.