



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

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

In Re: 25094703

Date: FEB. 17, 2023

Appeal of California Service Center Decision

Form I-129, Petition for a Nonimmigrant Worker (Religious Worker – R-1)

The Petitioner, a religious organization, seeks to classify the Beneficiary as an R-1 nonimmigrant religious worker to perform services as a “Communications and Content Manager.” *See* Immigration and Nationality Act (the Act) Section 101(a)(15)(R), 8 U.S.C. § 1101(a)(15)(R). This nonimmigrant R-1 classification allows non-profit religious organizations, or their affiliates, to temporarily employ noncitizens as ministers, in religious vocations, or in religious occupations in the United States.

The Director of the California Service Center denied the petition, concluding that the Petitioner did not sufficiently establish that the Beneficiary would be “coming [to the United States to work] solely as a minister or to perform a religious vocation or occupation,” as required under 8 C.F.R. § 214.2(r)(1)(iii) (2021); *see also* 8 C.F.R. § 214.2(r)(3) (defining “minister,” “religious occupation,” and “religious vocation”). The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner offers a brief as well as additional supporting documentation.

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 noncitizens to work in the United States for up to five years to perform religious work as ministers, in religious vocations, or in religious occupations. The petitioning organization must establish, among other requirements, that the noncitizen beneficiary has been a member of a religious denomination for at least the two-year period before the date the petition is filed. *See generally* Section 101(a)(15)(R) of the Act; 8 C.F.R. § 214.2(r).

In addition, the regulation specifies that the petitioner must establish that the beneficiary is “coming [to the United States to work] solely as a minister or to perform a religious vocation or occupation as defined in [8 C.F.R. § 214.2(r)(3)].” 8 C.F.R. § 214.2(r)(1)(iii). The regulation provides the following definition for “religious occupation”:

Religious occupation means an occupation that meets all of the following requirements:

- (A) The duties must primarily relate to a traditional religious function and be recognized as a religious occupation within the denomination;
- (B) The duties must be primarily related to, and must clearly involve, inculcating or carrying out the religious creed and beliefs of the denomination;
- (C) The duties do not include positions which are primarily administrative or support such as janitors, maintenance workers, clerical employees, fund raisers, persons solely involved in the solicitation of donations, or similar positions, although limited administrative duties that are only incidental to religious functions are permissible; and
- (D) Religious study or training for religious work does not constitute a religious occupation, but a religious worker may pursue study or training incident to status.

8 C.F.R. § 214.2(r)(3).

## II. ANALYSIS

On appeal, the Petitioner does not challenge the Director's adverse finding that the Beneficiary is not coming to the United States solely to work as a minister or to perform a religious vocation. We will therefore deem these issues waived. *See, e.g., Matter of M-A-S-*, 24 I&N Dec. 762, 767 n.2 (BIA 2009). Instead, the Petitioner argues on appeal that the Beneficiary "is coming to the United States to continue his formation as a monk," and as such, he is coming to the United States to perform a religious occupation.

In a July 2021 letter, the abbot and president of the petitioning entity stated that the Petitioner seeks to employ the Beneficiary, who "is in the process of becoming a monk," to work as a "Communications and Content Manager." The letter notes that the Beneficiary will "help with the maintenance of [the Petitioner's] communications systems, and creation and dissemination of [its] religious content." In addition, the letter explains that the Beneficiary will spend 10 hours per week on "computer and website improvements" and "be responsible for setting up computer system for lectures, discussion sessions, and many activities [for the petitioning entity] where computers are required." He will also spend 12 hours per week "assist[ing the petitioning entity] in transferring [its] current body of texts, lectures, and teachings into digital formats for greater ease of distribution." His other anticipated duties include "[p]erform[ing] computer system administration," "serv[ing] as a coordinator to schedule [video conference lectures and discussions for] Buddhist devotees," as well as "coordinating and arranging additional special courses, lectures, and tutorials for the summer interns and visitors." In other evidence, including an undated document entitled "Job Title: Communications and Content Manager at [the Petitioning Entity]" and materials the Petitioner has presented on appeal, the Petitioner reiterates the Beneficiary's anticipated duties associated with computer maintenance, website improvement, as well as other facilitation and coordination activities.

The Petitioner has not sufficiently demonstrated that the position of “Communications and Content Manager” qualifies as a religious occupation under 8 C.F.R. § 214.2(r)(3). The evidence is insufficient to confirm that the duties associated with the proposed position, including those we have noted above, are “primarily relate[d] to a traditional religious function” and “recognized as a religious occupation within the denomination,” or that the anticipated duties are “primarily related to, and must clearly involve, inculcating or carrying out the religious creed and beliefs of the denomination.” Instead, based on the documentation in the record, the Beneficiary’s anticipated duties, including those involving computer maintenance, website improvement, as well as other facilitation and coordination tasks, “are primarily administrative or support” and they are not “incidental to religious functions.” See 8 C.F.R. § 214.2(r)(3) (defining “religious occupation”).

The Petitioner asserts on appeal that the “Communications and Content Manager” position “is religious in nature and can only be performed by a Buddhist Monk, either fully ordained or working toward full ordination” and that only a person who is “a serious Buddhist, who is discerning their intention to become a monk” can fill the position. The evidence does not support this contention. Although the Petitioner has offered documentation indicating that the Beneficiary will likely participate in activities that are religious in nature – such as meditation, reading and studying religious materials, the Petitioner has not sufficiently demonstrated that the Beneficiary’s other anticipated duties, including those associated with computer maintenance, website improvement, as well as other facilitation and coordination responsibilities, are similarly religious in nature, or that they qualify as limited administrative duties that are only incidental to his purported intent of becoming a monk. See 8 C.F.R. § 214.2(r)(3) (defining “religious occupation”).

On appeal, the Petitioner cites *Special Immigrant and Nonimmigrant Religious Workers Final Rule*, 73 Fed. Reg. 72276-01, 72281 (Nov. 26, 2008), claiming that it supports a finding that the proposed employment qualifies as a position in a religious occupation. A reading of the *Final Rule*, however, does not support the Petitioner’s contention. The *Final Rule* states in pertinent part:

Missionaries and novitiates who cannot be classified as religious workers coming to the United States to perform a religious vocation because vocations in their denomination do not require a lifetime commitment should nevertheless be able to qualify as religious workers under the “religious occupation” definition.

In this case, the Petitioner has repeatedly acknowledged that its denomination has a group of individuals who are in a religious vocation. They are known as monks and they have made “a formal lifetime commitment, through vows, investitures, ceremonies, or similar indicia, to a religious way of life.” 8 C.F.R. § 214.2(r)(3) (defining “religious vocation”). As such, the Petitioner has not shown that the above section from the *Final Rule* is applicable to the Petitioner’s denomination or in this case.

Finally, the Petitioner argues that the regulatory definition for “religious occupation” “imposes a governmental burden and restriction [on its] right to decide what religious tenets it holds and how to train its monks.” It maintains that the regulation “force[s the petitioning entity] to change its religious beliefs concerning the work that monks-in-training are permitted to do.” It claims that 8 C.F.R. § 214.2(r)(3) violates the Religious Freedom Restoration Act (RFRA). We disagree.

The RFRA provides in pertinent part:

Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability, except \* \* \* if it demonstrates that application of the burden to the person –

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

[Religious Freedom Restoration Act of 1993, Pub. L. No. 103-141, § 3, 107 Stat. 1488 (1993) (codified as amended at 42 U.S.C. § 2000bb-1)]. The final rule is intended to permit religious organizations to petition for admission of religious workers under restrictions that have less than a substantial impact on the individual's or an organization's exercise of religion. A petitioner's rights under RFRA are not impaired unless the organization can establish that a specific provision of the rule imposes a significant burden on the organization's religious beliefs or exercise. Further, this rule is not the sole means by which an organization or individual may obtain admission to the United States for religious purposes, and DHS [Department of Homeland Security] believes that the regulation, and other provisions of the INA [Immigration and Nationality Act] and implementing regulations, can be administered within the confines of the RFRA. An organization or individual who believes that the RFRA may require specific relief from any provision of this regulation may assert such a claim at the time they petition for benefits under the regulation.

*Special Immigrant and Nonimmigrant Religious Workers Final Rule*, 73 Fed. Reg. at 72283. On appeal, the Petitioner has not established how U.S. Citizenship and Immigration Services' application of 8 C.F.R. § 214.2(r)(3) (defining "religious occupation") – which requires the Petitioner to show the Beneficiary is coming to the United States to work in a religious occupation with limited administrative duties that are only incidental to religious functions – imposes a significant burden on its or the Beneficiary's religious beliefs or exercise. As such, the Petitioner has not demonstrated that our application of 8 C.F.R. § 214.2(r)(3) violates the RFRA.

### III. CONCLUSION

The Petitioner has not established, by a preponderance of the evidence, its eligibility to classify the Beneficiary as an R-1 nonimmigrant religious worker. In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012). Here, the Petitioner has not met this burden.

**ORDER:** The appeal is dismissed.