



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

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

In Re: 28233382

Date: SEP. 20, 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 a nonimmigrant religious worker to perform services as a “worship minister.” *See* Immigration and Nationality Act (the Act) section 101(a)(15)(R), 8 U.S.C. § 1101(a)(15)(R). This R-1 nonimmigrant classification allows non-profit religious organizations, or their affiliates, to temporarily employ foreign nationals as ministers, in religious vocations, or in other religious occupations in the United States.

The Director of the California Service Center denied the petition and the subsequent motion challenging the denial, concluding in both instances that the record did not establish that the Beneficiary qualify as a religious worker as defined in 8 C.F.R. § 214.2(r)(3) and that the Petitioner did not submit verifiable evidence explaining how it would compensate the Beneficiary pursuant to 8 C.F.R. § 214.2(r)(11). 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 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 foreign national 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).

The regulation at 8 C.F.R. § 214.2(r)(1)(iii) specifies that a petitioner must demonstrate that the beneficiary is “coming [to the United States] solely as a minister or to perform a religious vocation or occupation.”

Specifically, the regulation at 8 C.F.R. § 214.2(r)(3) provides the following relevant definitions:

Minister means an individual who:

- (A) Is fully authorized by a religious denomination, and fully trained according to the denomination's standards, to conduct religious worship and perform other duties usually performed by authorized members of the clergy of that denomination;
- (B) Is not a lay preacher or a person not authorized to perform duties usually performed by clergy;
- (C) Performs activities with a rational relationship to the religious calling of the minister; and
- (D) Works solely as a minister in the United States which may include administrative duties incidental to the duties of a minister.

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.

Furthermore, the regulation at 8 C.F.R. § 214.2(r)(10)(iii) lists required evidence a petitioner must submit to establish that an individual qualifies as a minister. For denominations that do not require a prescribed theological education for a minister, the following evidence is required:

- (A) The denomination's requirements for ordination to minister;
- (B) The duties allowed to be performed by virtue of ordination;
- (C) The denomination's levels of ordination, if any; and
- (D) The alien's completion of the denomination's requirements for ordination.

In addition, the regulation at 8 C.F.R. § 214.2(r)(11) discusses the requirements for compensation of religious workers. It provides that a petitioner must state how it intends to compensate the nonimmigrant beneficiary and must submit verifiable evidence of such compensation or how the beneficiary will be self-supporting.

Specifically, 8 C.F.R. § 214.2(r)(11)(ii) lists the required materials a petitioner must provide concerning a nonimmigrant beneficiary's ability to rely on self-support to satisfy the compensation requirements. It states:

- (A) If the alien will be self-supporting, the petitioner must submit documentation establishing that the position the alien will hold is part of an established program for temporary, uncompensated missionary work, which is part of a broader international program of missionary work sponsored by the denomination.
- (B) An established program for temporary, uncompensated work is defined to be a missionary program in which:
 - (1) Foreign workers, whether compensated or uncompensated, have previously participated in R-1 status;
 - (2) Missionary workers are traditionally uncompensated;
 - (3) The organization provides formal training for missionaries; and
 - (4) Participation in such missionary work is an established element of religious development in that denomination.
- (C) The petitioner must submit evidence demonstrating:
 - (1) That the organization has an established program for temporary, uncompensated missionary work;
 - (2) That the denomination maintains missionary programs both in the United States and abroad;
 - (3) The religious worker's acceptance into the missionary program;
 - (4) The religious duties and responsibilities associated with the traditionally uncompensated missionary work; and
 - (5) Copies of the alien's bank records, budgets documenting the sources of self-support (including personal or family savings, room and board with host families in the United States, donations from the denomination's churches), or other verifiable evidence acceptable to USCIS.

II. ANALYSIS

A. Qualification as a Religious Worker

First, we will address the Petitioner's claim that the Beneficiary meets the definition of a minister according to 8 C.F.R. § 214.2(r)(3). On appeal, the Petitioner contends the Director did not consider the organization's guidelines for minister's ordination submitted with the initial filing. The Petitioner claims that the organization does not require a prescribed theological education and the Beneficiary completed the denomination's requirements for ordination.

The regulation at 8 C.F.R. § 214.2(r)(3) defines a minister as an individual "fully authorized by a religious denomination, and fully trained according to the denomination's standards, to conduct religious worship and perform other duties usually performed by authorized members of the clergy of that denomination." The regulation at 8 C.F.R. § 214.2(r)(10)(iii)(A) requires that the Petitioner submit the denomination's requirements for ordination to minister and completion of the denomination's requirements for ordination.

The record contains the petitioning organization's "Guidelines for Ordination, Licensing and Commissioning" and these guidelines lay out the general requirements for three different types of ministerial credentials: 1) Certificate of Commissioning for Ministry; 2) License for Ministry; and 3) Certificate of Ordination to Ministry. The first credential, "Certificate of Commissioning for Ministry," is issued to candidates "involved in local church, para-church, mission, worship, chaplaincy, and evangelism ministries." The second credential, "License for Ministry," is described as a "period of training and/ or internship" with "responsibilities which extend far beyond the normal involvement of a layman." The guidelines specifically provide that an example for a license of ministry may be "[a] worship leader who leads and takes on responsibility for worship."

The third credential, "Certificate of Ordination to Ministry," is given "after examination and recommendation by an appropriate council and is granted to a man from that church who is called, qualified and gifted to be a minister of the gospel of Christ." According to the guidelines, the process for ordination requires a thorough examination of the candidate, involvement of a pre-ordination committee, preparation and defense of a doctrinal statement, but does not require any specific theological education.

Although these guidelines demonstrate that the organization does not require ordained ministers to have theological education, they do not support the Petitioner's claim that the Beneficiary has completed the ordination requirements and he is an ordained minister. The Petitioner submitted the Beneficiary's "Certificate of License" issued on February 1, 2020, but the guidelines specifically state: "[l]icensing is never to be construed as Ordination or a substitute for it," making a clear distinction between a license for ministry and ordination as clergy. Aside from this "Certificate of License," the Petitioner has not submitted other evidence to show that the Beneficiary has undergone the required process to be an ordained minister, as described in the guidelines. The Petitioner must support his assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376.

Furthermore, the Petitioner's "Narrative for Faith Dialogue" explaining the common creed, form of worship, formal code of doctrine and discipline, and religious services contains inconsistent information as article three states: "[w]e do license but presently don't ordain clergy." This statement contradicts the Petitioner's claim that the Beneficiary is an ordained minister as it appears that the organization does not ordain clergy at all. 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). This unresolved inconsistency detracts from the credibility of the evidence in the record.

The Petitioner also contends that it submitted various letters confirming the Beneficiary's qualification as a worship minister on motion, but the Director did not take into consideration the information contained in these letters. The Petitioner claims that the Director erred in focusing only on his musical talents, but not on the religious nature of his songs and activities. However, the Director considered these letters and noted that the letters praise his musical abilities, but they do not demonstrate that the Beneficiary qualifies as a minister according to 8 C.F.R. § 214.2(r)(3). Regardless of whether the Beneficiary engaged in producing and singing religious music and qualifies as a worship leader and singer based on all his past experiences, the Beneficiary must still meet the definition of a "minister" set forth in 8 C.F.R. § 214.2(r)(3).

Therefore, we find the Petitioner has not provided sufficient evidence that the Beneficiary meets the definition of an ordained minister according to the denominational standards.

In the alternative, we will consider whether the Beneficiary's position meets the definition of religious occupation as the Petitioner raises this issue on appeal. The Petitioner does not allege any specific error made by the Director, but mainly contends that the worship is a common practice of the Christian religion and cites to the use of worship in the Bible. We do not disagree that worship and music are an important part of Christianity; however, determining whether the religious worker is qualified to receive benefits under the U.S. immigration laws rests with the U.S. Citizenship and Immigration Services (USCIS). Authority over the latter determination lies not with any ecclesiastical body but with the secular authorities of the United States. *Matter of Hall*, 18 I&N, Dec. 203 (BIA 1982); *Matter of Rhee*, 16 I&N Dec. 607 (BIA 1978).

Here, the record does not sufficiently demonstrate that the Beneficiary's position meets the definition of religious occupation pursuant to 8 C.F.R. § 214.2(r)(3). The Petitioner must show that the Beneficiary's duties must primarily relate to a traditional religious function and involve carrying out the religious creed and beliefs of the denomination. Merely asserting that the musical worship is essential to the Christian religion without corroborating evidence is not sufficient. *See Matter of Chawathe*, 25 I&N Dec. at 376.

B. Compensation

Now we turn to the issue of compensation. Throughout the proceedings, the Petitioner has provided inconsistent statements regarding how it intends to compensate the Beneficiary. Initially, the Petitioner indicated on Form I-129, Petition for a Nonimmigrant Worker, that the Beneficiary "will be receiving a salary of \$3,000 per month, \$2,000 in housing allowance and \$1,000 of wages." At the

same time, the Petitioner included a job description which states that “each employee must be fully committed to raising their own financial support.”

Both on motion to the Director and on appeal, the Petitioner has acknowledged that the Beneficiary “will be raising their own financial support within the organization.” However, the regulation at 8 C.F.R. § 214.2(r)(11)(ii)(A) states that if the Beneficiary is to self-support, the Petitioner must demonstrate that the Beneficiary’s position is a part of an established program for temporary, uncompensated missionary work. Here, the Petitioner has not provided any corroborating evidence to show that the Beneficiary’s position as a worship minister is a traditionally uncompensated missionary work that belongs in an established missionary program. Furthermore, the Petitioner has not submitted supporting documentation to demonstrate that the organization in fact has an established missionary program sponsored by its denomination, that the Beneficiary has been accepted to and obtained trainings for such missionary program, and the Beneficiary has verifiable financial resources to self-support, such as bank statements, budgets, or room and board, as required by 8 C.F.R. § 214.2(r)(11)(ii).

Contrary to the Petitioner’s statement that the Beneficiary will self-support, the Petitioner also claims that the Beneficiary will receive a salary from the petitioning organization. The Petitioner states on appeal: “even if Petitioner did not raise the funds to cover his salary, the church had the financial means to cover his expenses, while allotting him an annual amount of \$24,000 compensation for services provided as Worship Minister at the Petitioning organization.” However, the Petitioner’s statements are inconsistent with the Petitioner’s prior claims that the Beneficiary will receive \$2,000 in housing allowance and a salary of \$3,000 per month for his services. Here, the Petitioner has not explained this discrepancy on appeal or offered independent, objective evidence to resolve it. *See Matter of Ho*, 19 I&N Dec. at 591-92.

For these reasons, we conclude the record does not establish that the Petitioner submitted verifiable evidence of compensation for the Beneficiary. 8 C.F.R. § 214.2(r)(11).

III. CONCLUSION

The Petitioner has not established, by a preponderance of the evidence, eligibility to classify the Beneficiary as an R-1 nonimmigrant religious worker. Specifically, the record does not demonstrate that the proposed employment is in a minister category or in religious occupation. *See* 8 C.F.R. § 214.2(r)(3). The record also does not establish that the Petitioner submitted verifiable evidence of compensation for the Beneficiary. 8 C.F.R. § 214.2(r)(11). 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.