



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

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

In Re: 23981379

Date: JAN. 24, 2023

Appeal of California Service Center Decision

Form I-360, Petition for Special Immigrant Religious Worker

The Petitioner, a church, seeks to classify the Beneficiary as a special immigrant religious worker to perform services as an assistant 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 on two grounds. First, the Director concluded that the Petitioner did not sufficiently establish the Beneficiary's ministerial qualifications according to the denomination's standards. *See* 8 C.F.R. § 204.5(m)(5), (9). Second, the Director determined that the Beneficiary did not possess the requisite two-year qualifying religious work experience. *See* 8 C.F.R. § 204.5(m)(2), (4). The matter is now before us on appeal.

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)(2) states that one of eligibilities for classification as a special immigrant religious worker include working in a full time (at least 35 hours per week) compensated position in the vocation of a minister of a religious denomination.

The regulation at 8 C.F.R. § 204.5(m)(4) further requires that the special immigrant religious worker must have been working, either abroad or in the United States <sup>1</sup> for at least the two-year period immediately preceding the filing of the petition.

Finally, 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.

## II. ANALYSIS

The Petitioner asserts on appeal that the 2021 W-2 form submitted to USCIS belongs to the senior pastor of the petitioning church and that the Beneficiary did not violate his immigration status by working unauthorized. The Petitioner does not contest any other issues within the Director's decision. Hence, we find that the Petitioner waives its claims relating to other issues. *See Matter of Zhang*, 27 I&N Dec. 569, 569 n.2 (BIA 2019) (finding that issues not appealed are deemed as abandoned); *see also United States v. Fernandez Sanchez*, 46 F.4th 211, 219 (4th Cir. 2022) (finding the failure to raise arguments regarding eligibility waives those arguments on appeal).

We acknowledge that the Director erred in attributing this W-2 form to the Beneficiary. However, this error is not determinative in the outcome of the case. The Petitioner must demonstrate that the Beneficiary was working as a minister or in qualifying religious vocation or occupation in a full-time, compensated position during the requisite two years with verifiable IRS documents. *See* 8 C.F.R. § 204.5(m)(2), (4). The only W-2 submitted on record belongs to the Senior Pastor [REDACTED]. The record lacks the Beneficiary's W-2s or other IRS documentation showing that he worked and received compensation during the requisite period. Therefore, we find that the Petitioner has not demonstrated that the Beneficiary has the required two years of full-time, compensated religious work experience.

Since the Petitioner offers no other substantive arguments on appeal, we adopt and affirm the rest of the Director's decision.

As the Petitioner has not established eligibility for the benefit, we decline to reach any conclusion on whether the Beneficiary violated his immigration status as it would not change the outcome of the appeal. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n. 7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

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<sup>1</sup> U.S. Citizenship and Immigration Services (USCIS) no longer requires that the qualifying religious work experience for the two-year period, described in 8 C.F.R. § 204.5(m)(4) and (11), be in lawful immigration status. *See* USCIS Policy Memorandum PM-602-0119 *Qualifying U.S. Work Experience for Special Immigrant Religious Workers* 2 (July 5, 2015), [http://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2015/2015-0705\\_Lawful\\_Status\\_PM\\_Effective.pdf](http://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2015/2015-0705_Lawful_Status_PM_Effective.pdf) (USCIS Policy Memorandum PM-602-0119).

### 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.