



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

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

In Re: 27176710

Date: JUN. 26, 2023

Appeal of California Service Center Decision

Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant (Religious Worker)

The Petitioner, a church, seeks to classify the Beneficiary as a special immigrant religious worker to perform services as an outreach minister and pastoral assistant. This fourth preference 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. Immigration and Nationality Act (the Act) section 203(b)(4), 8 U.S.C. § 1153(b)(4).

The Director of the California Service Center denied the petition, concluding that the record did not establish that the Beneficiary had been continuously employed as a religious worker in a full time, compensated status for at least the two-year period immediately preceding the filing of the petition. 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, or a foreign national may petition on their own behalf, to immigrate to the United States to perform full-time, compensated religious work as ministers, in religious vocations, or in religious occupations. The foreign national must meet 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. *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, 8 U.S.C. § 1101(a)(27)(C)).

Specifically, the foreign national must have been working continuously in a full time, compensated status in one of the three types of qualifying positions, either in the United States or abroad, for at least the two-year period immediately preceding the filing of the petition. A break in the continuity of this work will not affect eligibility if the foreign national was still employed as a religious worker, the

break did not exceed two years, and the break was for further religious training or a sabbatical. 8 C.F.R. §§ 204.5(m)(2),(4).

If the foreign national gained this previous work experience in the United States, the evidence of their work experience must show that they received salaried compensation, non-salaried compensation, or provided for their own support and that of any dependents. On the other hand, employment outside the United States during this two-year period must be documented by comparable evidence. 8 C.F.R. § 204.5(m)(11).

II. ANALYSIS

The sole ground for the Director's decision to deny the petition was the Petitioner's inability to establish that the Beneficiary had been continuously employed as a religious worker in a full time, compensated position for at least the two years immediately preceding the filing of the petition. In this case, that period began on May 7, 2020 and ended on May 6, 2022.

As evidence of the Beneficiary's work during this period, the Petitioner submitted two letters from the pastor of the [REDACTED] in Mexico.¹ These letters indicate that the Beneficiary was active in the church from 2014 to 2021, participating in a variety of activities including as a teacher in vacation Bible school and Sunday school, directing music for the congregation, serving as an usher, and cleaning the temple. The most recent letter, dated November 17, 2022, ambiguously states that his "weekly schedule covered 6 hours of daily work" and does not provide specific dates for this work, and it specifies that it was done without the Beneficiary receiving any "financial remuneration." This evidence therefore does not show that this work was either full time or compensated. In addition, the letters do not show that he was performing the duties of a religious occupation or vocation, or those of a minister, as those are defined at 8 C.F.R. § 204.5(m)(5).

In addition, the Director noted in his decision that the Beneficiary's statement indicates that he "was unable to find work for several months" after returning home from his studies at a bible college in 2020, and that he later worked as a physical therapist in 2021. He concluded that in light of this evidence, the Petitioner had not established that the Beneficiary was employed as a full time religious worker for the relevant two-year period.

On appeal, the Petitioner submits copies of the translations of the second [REDACTED] letter and the Beneficiary's statement which include additional text at the bottom, labeled as "Explanation of letter" and "Clarification about this letter," respectively. While both of these added sections seek to add supplemental information to the content of the letters addressing the grounds for denial, neither includes the signature of the authors of these letters. We therefore consider them to be the unsupported assertions of the Petitioner, and as such will give them no evidentiary weight.

¹ We note that these letters were originally written in Spanish and were accompanied by translated versions in English. A signed statement from the translator verifies her fluency in English and Spanish, but does not certify the completeness and accuracy of the translation of these and other Spanish language documents in the record. This evidence therefore does not meet the requirements at 8 C.F.R. § 103.2(b)(3) regarding the translation of documents in a foreign language, and this issue must be addressed in any further proceedings in this matter.

We also note the lack of evidence to show how the Beneficiary provided for his own support during this period per the requirement at 8 C.F.R. § 204.5(m)(11)(iii), which, in cases such as this when the previous religious work occurred outside the United States, requires comparable evidence of documents such as audited financial statements, financial institution records, brokerage account statements, or other verifiable evidence acceptable to USCIS.

Further, the evidence in the record does not account for the entire period from May 7, 2020 to May 6, 2022. Notably, the letter from [REDACTED] states only that he was active in that church “up to 2021,” making it unclear at what point in 2021 this activity ended. There is also no documentary evidence regarding the five months in 2022 prior to the filing of the petition, although the record indicates that the Beneficiary’s last entry into the United States occurred in December 2021 and that he was living at the Petitioner’s church at the time of filing. We note that on June 1, 2022, USCIS records show that the Beneficiary spoke with a USCIS officer during an onsite inspection at the Petitioner’s church and stated that he had been volunteering for the Petitioner while awaiting approval of the petition. However, uncompensated work as a volunteer is not qualifying employment per the regulation at 8 C.F.R. § 204.5(m)(4).

For all of the reasons given above, we agree with the Director and conclude that the Petitioner has not established that the Beneficiary was continuously employed as a religious worker in a full time, compensated status for at least the two years immediately preceding the filing of the petition. The Petitioner has therefore not established that the Beneficiary is eligible for classification as a special immigrant religious worker.

ORDER: The appeal is dismissed.