



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

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

In Re: 21562137

Date: AUG. 10, 2022

Appeal of California Service Center Decision

Form I-129, Petition for 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 “[redacted] Pastor.” 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 foreign nationals 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 submit credible and sufficient evidence showing that the Beneficiary would “[b]e coming to the United States to work at least in a part time position (average of at least 20 hours per week)” as a qualifying religious worker. 8 C.F.R. § 214.2(r)(1)(ii), (8)(ix) (2020). The Director subsequently denied the Petitioner’s combined motions to reopen and reconsider the matter, noting that the petition was denied because the Petitioner “provided inconsistent information regarding where and when the [B]eneficiary would work.” The Director acknowledged that the Petitioner submitted on motion a revised weekly work schedule that changed the Beneficiary’s work locations and the associated work hours. The Director concluded that the motion evidence “represent[ed] a new inconsistency” and that the “[n]ew representations [] contradict[ed] previous representations.”

The Petitioner appeals, maintaining that it has shown eligibility to classify the Beneficiary as an R-1 nonimmigrant religious worker. In these proceedings, it is the Petitioner’s burden to establish, by a preponderance of the evidence, eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012); *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010).<sup>1</sup> 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

---

<sup>1</sup> If a petitioner submits relevant, probative, and credible evidence that leads us to believe that the claim is “more likely than not” or “probably” true, it has satisfied the preponderance of the evidence standard. *Chawathe*, 25 I&N Dec. at 375-76.

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).

In addition, the regulation specifies that the petitioner must establish that the beneficiary is “coming to the United States to work at least in a part time position (average of at least 20 hours per week).” 8 C.F.R. § 214.2(r)(1). “An authorized official of the prospective employer” must attest that “the alien will be employed at least 20 hours per week” and “[t]he specific location(s) of the proposed employment.” 8 C.F.R. § 214.2(r)(8)(ix)-(x); *see also* 8 C.F.R. § 214.2(r)(16) (providing that U.S. Citizenship and Immigration Services (USCIS) may conduct on-site inspection of “the work locations planned for the applicable employee” to verify a petitioner’s evidence).

## II. ANALYSIS

The Petitioner has not shown eligibility to classify the Beneficiary as an R-1 nonimmigrant religious worker, because it has not submitted credible and sufficient evidence showing, by a preponderance of the evidence, that the Beneficiary will “[b]e coming to the United States to work at least in a part time position (average of at least 20 hours per week)” as a religious worker, or that he will be working as a religious worker at “[t]he specific location(s) of the proposed employment.” 8 C.F.R. § 214.2(r)(1)(ii), (8)(ix)-(x).

The Petitioner submitted to the Director multiple documents, claiming that the Beneficiary will work full-time only at a [redacted] Avenue location. For example, the Petitioner indicated on page 5 of the petition and page 34 of the R-1 Classification Supplement that the Beneficiary will work 40 hours a week at [redacted] Avenue” in [redacted] New York. According to page 5 of the petition, the “[a]ddress where the [B]eneficiary[] will work” full-time is the same as the address listed on page 1 of the petition, which is [redacted] Avenue” in [redacted] New York. An undated document entitled “Some Basic Information of the Church” provides that the “Service address” is [redacted] Avenue, [redacted], NY” and that the petitioning entity “is using this church [location] for Sunday and Monday services.” The Petitioner’s Certificate of Incorporation similarly indicates that its “principal place of worship is located at [redacted] Avenue, [redacted] New York.”

In its initial filing to the Director, the Petitioner offered a November 2020 letter from [redacted] Church, noting that the petitioning organization may use the [redacted] Avenue location “every Monday [from] 9:30 am to 5:30 pm,” which “includes two sessions of congregational worship.” The letter does not indicate that the petitioning entity may use the location on Sundays or any other days in the week. In its initial filing, the Petitioner also submitted copies of its fliers,<sup>2</sup> which claim that the petitioning entity holds Sunday services at two locations: the [redacted] Avenue location, and the [redacted] Ave[nue], [redacted] NY” location. The Petitioner did not indicate in its initial

---

<sup>2</sup> The Petitioner’s “Elder-in-Charge,” [redacted] called these fliers “bulletins” in his October 2021 statement. The Petitioner submitted other fliers, dated November 15 and 22, 2020, that are in a foreign language without English translations. *See* 8 C.F.R. § 103.2(b)(3) (providing that “[a]ny document containing foreign language submitted to USCIS shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator’s certification that he or she is competent to translate from the foreign language into English”).

filing or on the petition that the Beneficiary's actual work location included the [ ] Avenue location.<sup>3</sup>

On page 3 of the request for evidence (RFE), the Director identified inconsistencies and deficiencies in the record, stating: "a letter from [ ] Church stat[es] that [the petitioning entity] has permission to use its facilities each Monday from 9:30 am to 5:30 pm" and that "constitutes 8 hours per week." The November 2020 letter does not support the Petitioner's claims that the Beneficiary will work 40 hours a week at the [ ] Avenue location, or that he will provide services at that location on both Sundays and Mondays. The Director noted in the RFE that the Petitioner "ha[d] not demonstrated how many hours . . . per week the position in fact requires" and it "ha[d] not listed all proposed work locations." In its RFE response, the Petitioner submitted a document entitled "Weekly Work Schedule as [ ] Pastor in SRM [the Petitioning Organization]" (weekly work schedule), changing the Beneficiary's intended employment locations. According to the weekly work schedule, the Beneficiary will work at the [ ] Avenue location on Sundays, at the [ ] Avenue location on Mondays, Wednesdays, and Fridays, and at home on Thursdays and Saturdays. It also provided a document entitled "Summary of Number of Hours Spent on Performing Each Function," claiming that the Beneficiary will work a total of 40 hours a week.

Upon reviewing the evidence, including the Petitioner's RFE response, the Director denied the petition, finding that the Beneficiary's weekly work schedule, submitted in the RFE response, changed his intended work locations, and did not satisfy the attestation requirements under 8 C.F.R. § 214.2(r)(8)(x). In addition, the Director discussed inconsistencies in the evidence regarding the Beneficiary's intended work locations and the associated hours at the locations. For example, the information contained in the weekly work schedule and the document "Some Basic Information of the Church" contradicts the November 2020 letter from [ ] Church, which indicates that the petitioning entity may use the [ ] Avenue location only on Mondays, not on Sundays, Wednesdays, and Fridays. In addition, according to the lease the Petitioner submitted in its RFE response, it rented the [ ] Avenue location in October 2020, approximately two months before filing the petition; and yet, it did not list on the petition that the Beneficiary will work at the [ ] Avenue location. Rather, it claimed on the petition that he will work solely at the [ ] Avenue location.

The Petitioner then filed combined motions to reopen and reconsider the matter with the Director, and submitted addition evidence, including an October 2021 statement from its "Elder-in-Charge," [ ] a document entitled "Weekly Work Schedule as [ ] Pastor in SRM [the Petitioning Organization] Revised" (revised weekly work schedule), and meeting minutes. The October 2021 statement references "misunderstandings and inconsistencies in [the petition] and [the Petitioner's] response to [the Director's] request for evidence." The statement claims that the Petitioner "moved to the [ ] [Avenue] location on October 1, 2020" and "use[s] this place for one of the worships and Sunday school." The statement further alleges that "[d]uring the pandemic," and "for a short period of time," the petitioning entity "had an additional worship service on Sunday afternoon" at the [ ] Avenue location. The Petitioner, however, failed to provide details concerning when and for how

---

<sup>3</sup> The record includes evidence indicating that the Petitioner has another location at [ ] Street in [ ] New York, that is under construction. The petition does not list the [ ] Street location as the Beneficiary's intended employment location.

long it had the use of the [ ] Avenue location on Sunday afternoons. It also did not point to any corroborating evidence in support of the claim that it could use the location on Sundays.

Additionally, the revised weekly work schedule that the Petitioner presented on motion again changed the Beneficiary's intended work locations. Instead of working at the [ ] Avenue location on Wednesdays and Fridays, as previously claimed in his weekly work schedule, the revised weekly work schedule indicates that he will work at the [ ] Avenue location on those days during the week. In his October 2021 statement, [ ] stated that "[s]ince [the petitioning entity's] main and largest service is held at [ ] Avenue, [ ] NY [ ] the [ ] Avenue location was the only address [the entity] listed as the location of [the Beneficiary's] employment." [ ] also claimed that the [ ] Avenue location "was mistakenly provided to USCIS in [the] initial petition as the location of employment . . . because this is the largest location with the most exposure." The Director denied the combined motions, finding that the motion evidence "represents a new inconsistency" regarding the Beneficiary intended employment locations and the proposed work hours associated with the locations, and that the Petitioner failed to resolve the inconsistency. *See Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

On appeal, the Petitioner "admit[s] that not all the [employment] locations were listed in the original submission," but maintains that the omission constitutes a "mistake" that "should not have been fatal to the [petition]." The Petitioner further states that "[t]here is no one firm location where the [B]eneficiary will permanently work" and that the "job offer" is "in flexible, multiple locations, whether at home, or the Church's locations in [ ]" These statements, however, are inconsistent with information regarding the proposed employment that the Petitioner had initially provided to the Director.

As the Petitioner has submitted inconsistent documents concerning the Beneficiary's intended employment locations and the intended work hours associated with each location, it must "resolve the inconsistencies by independent objective evidence," and that its "[a]ttempts to explain or reconcile the conflicting accounts, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice." *See Matter of Ho*, 19 I&N Dec. at 591-92. Simply asserting that it had made a mistake on the petition does not constitute competent and objective evidence pointing to where the truth lies and does not resolve the inconsistencies. The Petitioner, through its authorized individual, [ ] executed the petition, certifying on page 8 of the petition (which lists only one employment location) that "I have reviewed this petition, and that all the information contained in the petition, including all responses to specific questions, and in the supporting documents, is complete, true, and correct."

In addition, the Director confronted the Petitioner with the inconsistencies multiple times; and each time, the Petitioner attempted to resolve them by submitting documents that contain additional inconsistencies. For example, in the RFE, the Director noted that the Petitioner's claim that the Beneficiary will work 40 hours a week at the [ ] Avenue location is inconsistent with information noted in the letter from [ ] Church, because the letter says the petitioning entity is allowed to use that location only on Mondays for 8 hours. The Petitioner then submitted the weekly work schedule, alleging that the Beneficiary will work at the [ ] Avenue location for 24 hours a week on Mondays, Wednesdays, and Fridays. When the Director denied the petition, noting that the information contained in the weekly work schedule still contradicts information in the letter from

[redacted] Church, the Petitioner filed combined motions, submitting a revised weekly work schedule, again changing the Beneficiary's intended employment locations, and the proposed hours associated with the locations. The Petitioner has changed the terms of the offered employment, specifically, as relating to the proposed employment locations and hours, after filing the petition. Such changes constitute impermissible material changes to the petition. The Petitioner has therefore not established its eligibility for the petition at the time it filed the petition. *See Matter of Izummi*, 22 I&N Dec. 169, 175-76 (Assoc. Comm'r 1998) (noting that "a petitioner may not make material changes to a petition that has already been filed in an effort to make an apparently deficient petition conform to [USCIS] requirements"); *see also* 8 C.F.R. § 103.2(b)(1) (noting that a "petitioner must establish that [it] is eligible for the requested benefit at the time of filing the benefit request and must continue to be eligible through adjudication").

Moreover, there are additional inconsistencies in the record that the Petitioner has not resolved. For example, according to fliers that Petitioner presented in its initial filing as well as in its motion filing to the Director, its Bible study is held on Wednesdays at 11:30 pm, but the Beneficiary's weekly work schedule claims that he will conduct Bible study on Thursdays, and that his work will end at 5 pm on both Wednesdays and Thursdays. The fliers indicate that "Fellowship" is held from Tuesdays through Thursdays at 11:30 pm, and that "Fellowship for Mothers" is held on Sundays and Mondays. The Beneficiary's weekly work schedule, however, alleges that he will attend fellowship on Fridays. The fliers indicate that children's Sunday school will be held virtually on Zoom, but the Beneficiary's weekly work schedule claims that he will conduct Sunday school in-person at the [redacted] Avenue location. The Petitioner has not resolved these additional inconsistencies regarding the Beneficiary's proposed employment locations, hours, and duties. *See Matter of Ho*, 19 I&N Dec. at 591-92.

In light of the multiple unresolved inconsistencies in the record regarding the Beneficiary's proposed employment, specifically, as relating to his intended work locations, hours, and duties, the Petitioner has not sufficiently shown, by a preponderance of the evidence, that the Beneficiary will "[b]e coming to the United States to work at least in a part time position (average of at least 20 hours per week)" as a religious worker, or that he will be working as a religious worker at "[t]he specific location(s) of the proposed employment." 8 C.F.R. § 214.2(r)(1)(ii), (8)(ix) (x).

### 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. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act; *Skirball Cultural Ctr.*, 25 I&N Dec. at 806. Here, the Petitioner has not met this burden.

**ORDER:** The appeal is dismissed.