



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

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

In Re: 35383046

Date: FEB. 13, 2025

Appeal of California Service Center Decision

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

The Petitioner, who is also the foreign national beneficiary,¹ seeks classification as a special immigrant religious worker to perform services as Music Ministry Director (religious occupation) for [REDACTED] [REDACTED] (“employer” or “church”). *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, concluding that the record did not establish that the Petitioner has the requisite two-years of qualifying religious work experience. *See* 8 C.F.R. § 204.5(m)(2), (4). 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

Foreign nationals who perform full-time, compensated religious work as ministers, in religious vocations, or in religious occupations for non-profit religious organizations in the United States may be classified as special immigrant religious workers. The petitioner 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. *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).

¹ Part 1 of the Form I-360, Petition for Special Immigrant Religious Worker, identifies the foreign national beneficiary as the Petitioner and the petition was signed not by any official of the church, but by the beneficiary himself. The regulation at 8 C.F.R. 204.5(m)(6) permits the I-360 petition to be filed “either by the alien or by his or her prospective United States employer.”

The regulation at 8 C.F.R. § 204.5(m) provides, in pertinent part, that in order to be eligible for classification as a special immigrant religious worker, a foreign national must:

- (2) Be coming to the United States to work in a full time (average of at least 35 hours per week) compensated position in one of the following occupations as they are defined in paragraph (m)(5) of this section:
 - (i) Solely in the vocation of a minister of that religious denomination;
 - (ii) A religious vocation either in a professional or nonprofessional capacity; or
 - (iii) A religious occupation either in a professional or nonprofessional capacity.

....

- (4) Have been working in one of the positions described in paragraph (m)(2) of this section, either abroad or in lawful immigration status in the United States,² and after the age of 14 years continuously for at least the two-year period immediately preceding the filing of the petition. The prior religious work need not correspond precisely to the type of work to be performed.

The regulation at 8 C.F.R. § 204.5(m)(11) addresses the evidentiary requirements to establish prior religious work experience. It provides:

- (11) *Evidence relating to the alien's prior employment.* Qualifying prior experience during the two years immediately preceding the petition or preceding any acceptable break in the continuity of the religious work, must have occurred after the age of 14 If the alien was employed in the United States during the two years immediately preceding the filing of the application and:
 - (i) Received salaried compensation, the petitioner must submit IRS documentation that the alien received a salary, such as an IRS Form W-2 or certified copies of income tax returns.
 - (ii) Received non-salaried compensation, the petitioner must submit IRS documentation of the non-salaried compensation if available.
 - (iii) Received no salary but provided for his or her own support, and provided support for any dependents, the petitioner must show how support was maintained by submitting with the petition additional documents such as audited financial statements, financial institution records, brokerage account statements, trust

² 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 generally* 6 USCIS Policy Manual H.2(C)(2), <https://www.uscis.gov/policymanual>.

documents signed by an attorney, or other verifiable evidence acceptable to USCIS.

Additionally, the regulation at 8 C.F.R. § 204.5(m)(5) defines “religious occupation” as 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 that 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.
- (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.

II. ANALYSIS

The instant petition was filed on November 20, 2023. The Director concluded that the evidence did not establish the Petitioner had the requisite two years of continuous, full-time, and compensated work experience immediately preceding the filing date of the petition, from November 2021 to November 2023. Specifically, the Director determined that attestation letters in the record are insufficient to establish the Petitioner’s two years of full-time religious work experience and that the Petitioner did not submit any verifiable evidence of his compensation (salaried and/or non-salaried) for his religious work during the relevant work period. We agree.

As noted by the Director, the Petitioner submitted various letters and affidavits from the church staff and church members. These letters provide conflicting information about the positions and roles that the Petitioner has performed for the employing church in the past. The Petitioner has claimed that he worked continuously as a full-time “Music Ministry Director” from November 2021 to November 2023, but the senior pastor’s letter in the initial filing indicated that “since July 2018 (over 5 years now), the Petitioner has been a member as well as a worker at our church in several different capacities and positions.”³ The initial filing also contains reference letters from several church members, acquaintances, and friends attesting to a variety of positions that the Petitioner has held in the past. One church member stated that the Petitioner worked “as a volunteer assistant pastor” in addition to being a music ministry director and another member noted that the Petitioner “headed the Small Group Ministry of the church, helping develop the program, and becoming its main leader and coordinator”

³ In response to the Director’s request for evidence (RFE) and notice of intent to deny (NOID), the Petitioner submitted a revised letter from the senior pastor stating that “since July 2018 . . . [the Petitioner] has been a member as well as a religious worker at our church in the Religious Occupation of Music Ministry Director due to his great musical talent.”

and was eventually “invited to be one of the pastors in the church as early as 2018.” The record does not explain how these different positions and duties are related, whether they were full-time or part-time, or qualify as a religious occupation. The Petitioner must resolve inconsistencies with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Unresolved material inconsistencies may lead us to reevaluate the reliability and sufficiency of other evidence submitted in support of the requested immigration benefit. *Id.*

The record also contains affidavits from the women’s pastor and the leader of deacons attesting that the Petitioner has been “an active church member since April 18th, 2018” and “[working] at our church in a Full-Time (35-hour per week) position in the Religious Occupation of Music Ministry Director also since April 18, 2018.”⁴ However, these affidavits do not provide necessary details regarding the Petitioner’s work schedule or job duties or discuss other positions that the Petitioner purportedly held in the past, as shown in the reference letters. Although the record contains the Petitioner’s job description, weekly schedule, and clarification letters all drafted by the senior pastor claiming that his religious work experience has been full-time and continuous, such claims are not supported by independent, objective evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376 (noting that the petitioner must support their assertions with relevant, probative, and credible evidence).

Additionally, the Petitioner has not provided sufficient documentation to establish that he received compensation from the employer during the relevant period. The affidavits from the church representatives do not contain any details regarding the Petitioner’s compensation, either salaried or non-salaried, during the qualifying two years. The Petitioner has not provided any other verifiable documentation that he received compensation from his employer. Instead, the senior pastor’s letter entitled “Explanation of W-2 Absence” states that the Petitioner “was sponsored by [the Petitioner’s wife] the owner of [redacted] and “[the Petitioner’s wife] provided payments for his housing/boarding and living expenses during his service as a religious worker for our church.” On appeal, the Petitioner maintains that he “was sponsored by his wife” during the qualifying period, resubmits the [redacted] bank statements and his wife’s sponsorship letter, and contends that “[t]his sponsorship/compensation is in accordance with 8 CFR 204.5(m)(11)(iii) in lieu of/ and representing the church.” It appears that the Petitioner is claiming that he self-supported during the qualifying period and thus he does not need to show compensation from the employer.

While the regulation at 8 C.F.R. § 204.5(m)(11)(iii) allows evidence of compensation during two-year period to include documentation confirming self-support, USCIS has specified that individuals who rely on self-support to establish that they are “participating in an established, traditional non-compensated missionary program.” Special Immigrant and Nonimmigrant Religious Workers Final Rule, 73 Fed. Reg. 72276, 72278, 2008 WL 4997485 (Nov. 26, 2008); 8 C.F.R. § 214.2(r)(11)(ii) (specifying the regulatory requirements that a petitioner must establish to classify a foreign national as a nonimmigrant R-1 religious worker).⁵ Here, neither the Petitioner nor the employing church has claimed that the Petitioner was participating in such a program. Accordingly, the documentation concerning the Petitioner’s self-support in the record does not confirm that he possesses the requisite prior religious work experience required under 8 C.F.R. § 204.5(m)(2) and (4).

⁴ Both the women’s pastor and the leader of deacons repeatedly attested to the Petitioner’s employment start date as April 18, 2018, but on appeal, they submitted revised affidavits with a changed start date of July 2018, matching the date indicated in the senior pastor’s letters.

⁵ *See also* 6 USCIS Policy Manual H.2(C)(2) n.62, <http://www.uscis.gov/policymanual>.

Beyond the Director's decision, the Petitioner has not established that the position of Music Ministry Director is a religious occupation recognized by the denomination or meets the standards set by the denomination. The regulation defines a religious worker as "an individual engaged in and, according to the *denomination's standards*, qualified for a religious occupation or vocation, whether or not in a professional capacity, or as a minister" (emphasis added). 8 C.F.R. § 204.5(m)(5). The regulation also requires that the duties of a religious occupation must "primarily relate to a traditional religious function" and "be recognized as a religious occupation *within the denomination*" (emphasis added). *Id.* The Petitioner stated that the church is affiliated with a religious denomination called the Florida Baptist Convention.

The Petitioner has not provided corroborating documentation to demonstrate that his position as Music Ministry Director meets the definition of a religious occupation under 8 C.F.R. § 204.5(m)(5). The senior pastor offered a document entitled "Clarification of the Position Offered" indicating that the position of "Music Ministry Director" is "a vital religious occupation because they enhance the worship experience, foster community, support liturgical functions, encourage spiritual growth, and preserve important musical traditions." However, the church bylaws or articles of faith make no mention of the proposed position as being recognized as a religious occupation by the denomination that oversees the employing church entity. In fact, the Petitioner has not provided any relevant documentation relating to the Florida Baptist Convention or other denominational authorities showing that the position of "Music Ministry Director" and its job description primarily relate to a traditional religious function and recognized within the denomination, that the denomination's standards require specific training for this position, or that the Petitioner has met such qualifications set by the denomination. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)). Therefore, the Petitioner has not established that the position meets the definition of the religious occupation according to the denominational standards and is recognized by the denomination.

III. CONCLUSION

Based on the foregoing, we conclude the Petitioner did not demonstrate that he has the required two years of full-time, compensated religious work experience and that his position qualifies as a religious occupation according to the denominational standards. Therefore, the Petitioner has not established, by a preponderance of the evidence, his eligibility for the classification 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.