



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

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

In Re: 5983148

Date: APR. 3, 2020

Appeal of California Service Center Decision

Form I-360, Petition for Special Immigrant Religious Worker

The Petitioner, a Roman Catholic organization, seeks to classify the Beneficiary as a special immigrant religious worker to perform services as a “consecrated, vowed member.” 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 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, as required, the Beneficiary has the requisite two-year prior employment experience. See 8 C.F.R. § 204.5(m)(2), (4). The Petitioner appeals, submitting additional evidence and maintaining that it has demonstrated eligibility to classify the Beneficiary as an immigrant religious worker.

In these proceedings, it is the Petitioner’s burden to establish, by a preponderance of the evidence, its 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).¹ 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)(ii) of the Act).

¹ 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.

The regulation at 8 C.F.R. § 204.5(m)(4) requires a petitioner to demonstrate that a beneficiary has worked “in one of the positions described in [8 C.F.R. § 204.5(m)(2)] . . . for at least the two-year period immediately preceding the filing of the petition.” Under 8 C.F.R. § 204.5(m)(2), qualifying experience is “a full time (average of at least 35 hours per week) compensated position in one of the following occupations”:

- (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.

In addition, the regulation specifies the required evidence relating to a beneficiary’s prior employment, stating:

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 [Internal Revenue Service] 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 documents signed by an attorney, or other verifiable evidence acceptable to USCIS [U.S. Citizenship and Immigration Services].

If the alien was employed outside the United States during such two years, the petitioner must submit comparable evidence of the religious work.

8 C.F.R. § 204.5(m)(11).

Moreover, the regulation provides the following relevant definitions:

Religious denomination means a religious group or community of believers that is governed or administered under a common type of ecclesiastical government and includes one or more of the following:

- (A) A recognized common creed or statement of faith shared among the denomination's members;
- (B) A common form of worship;
- (C) A common formal code of doctrine and discipline;
- (D) Common religious services and ceremonies;
- (E) Common established places of religious worship or religious congregations; or
- (F) Comparable indicia of a bona fide religious denomination.

.....

Religious vocation means a formal lifetime commitment, through vows, investitures, ceremonies, or similar indicia, to a religious way of life. The religious denomination must have a class of individuals whose lives are dedicated to religious practices and functions, as distinguished from the secular members of the religion. Examples of individuals practicing religious vocations include nuns, monks, and religious brothers and sisters.

8 C.F.R. § 204.5(m)(5).

II. ANALYSIS

As discussed, to establish eligibility for the petition, the Petitioner must demonstrate that the Beneficiary possesses the requisite two-year prior religious work experience. It must show that the Beneficiary worked as a full-time, compensated religious worker “continuously for at least the two-year period immediately preceding the filing of the petition.” 8 C.F.R. § 204.5(m)(4); *see also* 8 C.F.R. § 204.5(m)(2). The Petitioner filed the petition in November 2018. The relevant two-year period is therefore from November 2016 through November 2018.

In a November 2018 letter, the Petitioner’s officer, [redacted] states that the petitioning entity, also called the [redacted] “is an international religious organization in the Roman Catholic Church,” and explains that the “Catholic Church is a religious denomination within the Christian tradition.” On appeal, the Petitioner provides that it is “not technically a ‘religious order,’ but a Catholic ecclesial movement (a new form of association of the faithful which began during the 20th century) with a small group of consecrated men and women at its core.”

The Petitioner indicates that the Beneficiary is a focolarino. [redacted] explains in his November 2018 letter that “consecrated laymen and laywomen are called ‘focolarinos’ and ‘focolarinas,’” who may be married individuals, and that they “live in a community setting.” In his March 2019 letter, [redacted] states that a “focolare,” meaning “hearth,” is “a small community setting” where focolarinos and focolarinas live to “carry out [their] vocation.” A document entitled “Structure and Composition,” specifies that the petitioning organization has “two sustaining structures composed of the men’s

Focolare centers and the women's Focolare centers," where focolarinos and focolarinas "live in community"

The record includes a December 2007 document that the Beneficiary executed, entitled "[redacted]" stating that he "consecrate[s] [himself] to [Jesus] and "giv[es] [himself] fully with the final vows of poverty, chastity and obedience." In an April 2019 letter, [redacted] the Petitioner's regional director, states that the Beneficiary "stationed and lived" at the "focolare center in [redacted] Germany, from May 2015 to March 2019." [redacted] indicates that the Beneficiary's duties at the focolare center included "daily Mass and reception of the sacrament of the Eucharist"; "daily meditation and reflection on the Sacred Scripture"; and "daily communal prayer and spiritual communion in close cooperation with other community members." In addition, the Beneficiary "was the person responsible for the financial administration of [the] focolare center."

As relating to compensation during the relevant two-year period between November 2016 and November 2018, [redacted] provides that the Petitioner covered the Beneficiary's "room and board, medical insurance and travel as well as all other expenses." Similarly, according to a November 2018 letter from [redacted] as the Beneficiary had taken vows of poverty, he did "not receive a salary or any pay"; rather, all consecrated members "share[d] resources worldwide." The record includes a printout, listing the Beneficiary's information, including the dates of his first and final vows, as well as noting his position as "member living in community" and his status as "living in focolare." The Petitioner has also offered a document entitled "[redacted]" and the Beneficiary's resume, indicating that since 2015, he has been living in a "focolare community [in] [redacted] Germany," where he is responsible for "the aspect 'economy and work,' and "all youth related activities."

Based on the evidence in the record, the Petitioner has not established, by a preponderance of the evidence, that the Beneficiary possesses the requisite two-year prior employment experience. *See* 8 C.F.R. § 204.5(m)(2), (4). It has not shown that the Beneficiary worked in a full-time, compensated religious worker position between November 2016 and November 2018. As noted, under 8 C.F.R. § 204.5(m)(11)(ii), "[i]f the alien was employed in the United States during the two years," then "the petitioner must submit IRS documentation of the non-salaried compensation if available." The regulation further specifies that "[i]f the alien was employed outside the United States during such two years, the petitioner must submit comparable evidence of the religious work."

The Petitioner claims that the Beneficiary was in Germany during the relevant two-year period. It has submitted letters from its members indicating that the petitioning entity provided him with room and board, medical insurance, travel and other expenses, as well as the Petitioner's documents explaining the steps someone takes to become a focolarino living in a focolare. The Petitioner, however, has not demonstrated that such evidence is "comparable" to "IRS documentation of the non-salaried compensation," as required under 8 C.F.R. § 204.5(m)(11)(ii). The evidence, including letters and documents from the petitioning entity, constitutes uncorroborated statements and is insufficient to confirm that the Beneficiary received compensation as a religious worker between November 2016 and November 2018. *See* 8 C.F.R. § 204.5(m)(4); *see also* 8 C.F.R. § 204.5(m)(2).

Moreover, while the Petitioner claims on appeal that the Beneficiary's status as a focolarino qualifies as a position in a religious vocation and thus it need not show that the Beneficiary was working full-time between November 2016 and November 2018, the record does not support this position. The

regulation explains that in addition to “a formal lifetime commitment,” to meet the definition of a “religious vocation,” a petitioner must show that “[t]he religious denomination . . . have a class of individuals whose lives are dedicated to religious practices and functions, as distinguished from the secular members of the religion.” *See* 8 C.F.R. § 204.5(m)(5) (defining “religious vocation”). The Petitioner indicates that its religious denomination is the Catholic Church. The record, however, does not include sufficient evidence showing that the Catholic Church (rather than the petitioning entity) recognizes focolarinos – “consecrated laymen and laywomen,” according to [redacted] – as a class of individuals whose lives are dedicated to religious practices and functions, and that they are not secular members of Christianity.² As such, the Petitioner must show that the Beneficiary had worked full-time, averaging at least 35 hours per week, as a religious worker from November 2016 through November 2018, which it has not demonstrated. *See* 8 C.F.R. § 204.5(m)(4); *see also* 8 C.F.R. § 204.5(m)(2).

III. CONCLUSION

The Petitioner has not established, by a preponderance of the evidence, its eligibility to classify the Beneficiary as an immigrant religious worker. Specifically, based on the reasons we have discussed, the Petitioner has not shown that the Beneficiary had worked in a full-time, compensated religious worker position during the two-year period from November 2016 through November 2018, as required under 8 C.F.R. § 204.5(m)(4). *See also* 8 C.F.R. § 204.5(m)(2), (11).

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, that burden has not been met.

ORDER: The appeal is dismissed.

² On appeal, the Petitioner indicates that focolarinos and focolarinas are not addressed as “brothers” or “sisters,” and some “may serve at times . . . in secular employment.”