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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

DATE: NOV 28 2014

OFFICE: CALIFORNIA SERVICE CENTER FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

PETITION: Nonimmigrant Petition for Religious Worker Pursuant to Section 101(a)(15)(R) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(R)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

  
Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, denied the employment-based nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. We will dismiss the appeal.

The petitioner is a church. It seeks to classify the beneficiary as a nonimmigrant religious worker pursuant to section 101(a)(15)(R) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(R), to perform services as a minister of video production. The director determined that the petitioner failed to establish that the beneficiary will be employed in a qualifying position.

On appeal, the petitioner submits two briefs and additional evidence.

Section 101(a)(15)(R) of the Act pertains to an alien who:

(i) for the 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States; and

(ii) seeks to enter the United States for a period not to exceed 5 years to perform the work described in subclause (I), (II), or (III) of paragraph (27)(C)(ii).

Section 101(a)(27)(C)(ii) of the Act, 8 U.S.C. § 1101(a)(27)(C)(ii), pertains to a nonimmigrant who seeks to enter the United States:

(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

(II) . . . in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

(III) . . . in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation.

The regulation at 8 C.F.R. § 214.2(r)(1) states that, to be approved for temporary admission to the United States, or extension and maintenance of status, for the purpose of conducting the activities of a religious worker for a period not to exceed five years, an alien must:

(i) Be a member of a religious denomination having a bona fide non-profit religious organization in the United States for at least two years immediately preceding the time of application for admission;

- (ii) Be coming to the United States to work at least in a part time position (average of at least 20 hours per week);
- (iii) Be coming solely as a minister or to perform a religious vocation or occupation as defined in paragraph (r)(3) of this section (in either a professional or nonprofessional capacity);
- (iv) Be coming to or remaining in the United States at the request of the petitioner to work for the petitioner; and
- (v) Not work in the United States in any other capacity, except as provided in paragraph (r)(2) of this section.

The issue to be discussed is whether the petitioner has established that the beneficiary will be employed in a qualifying position.

The regulation at 8 C.F.R. § 214.2(r)(3) includes the following definitions:

*Minister* means an individual who:

- (A) Is fully authorized by a religious denomination, and fully trained according to the denomination's standards, to conduct religious worship and perform other duties usually performed by authorized members of the clergy of that denomination;
- (B) Is not a lay preacher or a person not authorized to perform duties usually performed by clergy;
- (C) Performs activities with a rational relationship to the religious calling of the minister; and
- (D) Works solely as a minister in the United States which may include administrative duties incidental to the duties of a minister.

*Religious occupation* means 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 which 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; and

(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.

*Religious worker* means 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.

The regulation at 8 C.F.R. § 214.2(r)(10) requires the petitioner to submit the following documentation if the alien will work as a minister:

(i) A copy of the alien's certificate of ordination or similar documents reflecting acceptance of the alien's qualifications as a minister in the religious denomination; and

(ii) Documents reflecting acceptance of the alien's qualifications as a minister in the religious denomination, as well as evidence that the alien has completed any course of prescribed theological education at an accredited theological institution normally required or recognized by that religious denomination, including transcripts, curriculum, and documentation that establishes that the theological education is accredited by the denomination, or

(iii) For denominations that do not require a prescribed theological education, evidence of:

(A) The denomination's requirements for ordination to minister;

(B) The duties allowed to be performed by virtue of ordination;

(C) The denomination's levels of ordination, if any; and

(D) The alien's completion of the denomination's requirements for ordination.

On February 28, 2014, the petitioner filed the Form I-129, Petition for a Nonimmigrant Worker, seeking to employ the beneficiary as a minister of video production. The petitioner identified itself as a Baptist church with over 19,000 members and 148 employees. In an accompanying job description, the petitioner stated that the duties of the position "center on creatively communicating to the congregation and the world outside church walls through the use of relevant and meaningful multimedia productions." The petitioner described the following "General Duties:"

Provides oversight and management of video productions in support of eight senior staff ministries focused on over 19,000 church members and their families as well as World Wide Web and satellite broadcast activities. This involves video team leadership, planning, facilitation, communication, and general administration to meet church ministry needs. Carries out other ministerial actions as needed and assigned.”

In addition to describing the technical knowledge required for the position, the petitioner indicated that the minister of video production must be a “committed follower of Jesus Christ,” and must “[u]nderstand and be able to champion the church’s mission, vision, and journey with a passion for connecting others to Christ using various types of media production.” The petitioner also submitted a proposed weekly schedule for the beneficiary, “for planning purposes only,” which listed 54 hours of duties, including the following:

- “Set-up and rehearsal for Worship Service” – 2 hours
- “Worship Service Support” – 4 hours
- “Volunteer Development” – 2.5 hours
- “[REDACTED] Special Events” – 3.5 hours
- “Sermon Editing and Distribution” – 4 hours
- “Video Editing, [REDACTED] App” – 4.5
- “Video Ministry Team Meeting” – 1 hour
- “Video Project Planning” – 1 hour
- “Worship Planning Meeting” – 2.5 hours
- “Video Pre-Production” – 2 hours
- “Video Production, Set-Up, Lighting, Shooting, Directing, Interviews” – 8 hours
- “Video Production, Middle School Program, HS Program, Mid-Week Rehearsal” – 3.5 hours
- “Post-Production, Editing, After-Effects, Sound Design, Color” – 8.5 hours
- “Video Packaging & Distribution” – 1.5 hours
- “Ministry Relationship Development” – 4.5 hours

The petitioner also submitted a copy of its Constitution and By-laws, which stated the following regarding “Licensing and Ordination:”

Any person recommended by the deacons and approved by the Pastor having given evidence that he is called to the work of the ministry, may be licensed to preach upon an affirmative vote at any church conference. The Pastor shall possess the sole right to convene an Ordination Council to examine the qualifications of a candidate and, in turn, advise the church as to the propriety of ordination. The final action to ordain such minister shall rest with the church upon recommendation of the Pastor.

In addition, the petitioner submitted copies of the beneficiary’s credentials, including a diploma in graphic design and a certificate in short film training, as well as an October 15, 2013 letter from the senior pastor of [REDACTED] a church in [REDACTED] Italy, stating that the beneficiary “has been our video and media director for the past 4 years.”

On March 4, 2014, the director issued a Request for Evidence (RFE), in part stating that it was not clear whether the beneficiary will be working as a minister or in a religious occupation. The director instructed the petitioner to submit additional information and evidence to establish that the proffered position met the regulatory requirements of a ministerial position and/or a religious occupation.

In a March 26, 2014 letter responding to the RFE, the petitioner characterized the proffered position as ministerial. The petitioner stated that “[m]inisterial roles in large churches can be quite numerous and varied (Minister to Children, Minister of Hospitality, Minister of Pastoral Care, Minister of Education, Minister of Service).” The petitioner asserted that each of these positions, including the minister of video production, “is responsible for ministry to our people, the community we live in, our partners abroad and peoples around the world.” The petitioner also stated that the “main requirement of the [proffered] position is ministry, theologically and doctrinally sound.”

In a separate “Requested Evidence Response” document, the petitioner stated that the beneficiary is being hired “to conduct religious worship, serve our people as a minister in the context of following the example of Jesus and to conduct other services usually performed by ‘clergy.’” The petitioner asserted that the beneficiary “will be authorized to teach [and] baptize believers,” and that “[o]rdination is not required for ministerial positions at this church.” The petitioner stated, “He provides direction to all staff in planning worship services and provides supervision to a staff of 12 volunteers (among 60 total) in high tech control rooms and supervises multiple camera operator applications. He also provides spiritual leadership and discipleship to these volunteers.”

In addition, the petitioner asserted that the proffered position meets the regulatory definition of a religious occupation, as it relates to the traditional religious functions of “leading worship, preaching, teaching and serving the people of the congregation.” In a March 25, 2014 letter, the petitioner’s senior pastor stated that the position is recognized as a religious occupation, and that he also fully authorizes the beneficiary as a Baptist minister. The petitioner also submitted a March 12, 2014 letter from [REDACTED] a Christian satellite broadcasting company that partners with the petitioning church. The letter emphasized the importance of the minister of video production in ensuring the high production quality of the petitioner’s programs for broadcast.

On April 7, 2014, the director denied the petition, finding that the petitioner failed to establish that the proffered position qualifies as a ministerial position or a religious occupation under the regulations. The director found that the listed duties for the position are primarily secular and technical in nature.

On appeal, in a brief dated May 15, 2014, the petitioner contends that knowledge of Baptist doctrine is necessary to carry out the duties of the position:

In a media position, such understandings are pivotal to doing such things as properly editing the audio of a sermon, or properly directing the cameras during a church ordinance like baptism and communion.

The petitioner also contends that the duties of the position are religious:

This position is in a religious institution and all activities that take place in a technical sense are within the scope and mission of the church that owns the position. The preparation of video packages or projects in this context is surely technical but requires an individual able to know scripture and doctrine. As stated earlier, the position requires that the incumbent must “understand and be able to champion the church’s mission, vision, and journey with a passion for connecting others to Christ using various types of media production.” The position is the quality link for the message and the mission between the church and the communication issues of world class ministry and communication. A person without religious understanding and core beliefs could never perform this function.

In support of its appeal, the petitioner submits letters from the [REDACTED] the [REDACTED] all of which assert that the position of minister of video production is recognized as a religious occupation relating to the traditional religious function of teaching the Gospel.

The first issue to be determined is whether the petitioner has established that the beneficiary will be working as a minister. The petitioner contends that the beneficiary has been fully authorized by its senior pastor to perform the services of a minister, including preaching, teaching and baptizing believers. The petitioner asserts that ordination is not required for ministerial positions. However, as cited above, the petitioner’s By-laws indicate that an individual “may be licensed to preach by an affirmative vote at any church conference.” The petitioner has not submitted evidence that the beneficiary has been licensed in this manner and therefore the petitioner has not established that the beneficiary is qualified for a ministerial position. Further, although the petitioner asserted in response to the RFE that the beneficiary will be authorized to teach and baptize believers, the petitioner did not list either of these duties on the petition or in the evidence submitted at the time of filing. The regulation at 8 C.F.R. § 214.2(r)(3) defines “minister,” in part, as one who “[w]orks solely as a minister” and who “[p]erforms activities with a rational relationship to the religious calling of the minister.” We find that the beneficiary’s role, which primarily involves producing and editing sermons that are written and delivered by others, does not meet either of these regulatory requirements.

The next issue to be determined is whether the petitioner has established that the proffered position meets the regulatory definition of a religious occupation. To the extent that the petitioner contends that every position within a religious institution qualifies as a religious occupation, this interpretation is not supported by the plain language of the regulations. The definition of “religious occupation” under 8 C.F.R. § 214.2(r)(3) lists specific requirements that an occupation must meet in order to qualify. Although the petitioner asserts that religious knowledge is required in order to perform the role of minister of video production, the petitioner has not submitted documentary evidence in support of that assertion. 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)). Regardless, a requirement of religious knowledge is not sufficient to establish that a position

qualifies as a religious occupation. Instead, the definition of “religious occupation” at 8 C.F.R. § 214.2(r)(3) focuses on the nature of the duties to be performed in the position, requiring that they be primarily related to a religious function, and that they be primarily related to, and clearly involve, inculcating or carrying out the religious creed and beliefs of the denomination. The petitioner contends that the production and editing of religious video content relates to the traditional religious function of evangelism, in that it enables the petitioning church to spread its message to a wider audience. The petitioner has not established that the beneficiary’s role in recording and editing the content of the work of others is evangelism. While the petitioner states that editing and camera work involve some judgment based on doctrinal knowledge, the petitioner has not sufficiently established that the technical duties comprising the majority of the beneficiary’s workload primarily relate to or involve carrying out the religious creed and beliefs of the denomination. Thus, although the petitioner submits evidence that the position is recognized as religious by Baptist organizations, we find that the petitioner has not established that the proffered position meets the regulatory requirements of a religious occupation.

For the reasons discussed above, the petitioner has not established that the beneficiary will be employed in a qualifying position.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

**ORDER:** The appeal is dismissed.