



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

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

MATTER OF T-B-C-O-T-S-L-H-A-,USA

DATE: MAY 17, 2016

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner, a Buddhist church, seeks to classify the Beneficiary as a nonimmigrant religious worker to perform services as a liaison officer. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(R), 8 U.S.C. § 1101(a)(15)(R). This classification allows non-profit religious organizations, or their affiliates, to temporarily employ foreign nationals as ministers or in other religious occupations or vocations in the United States.

The Director, California Service Center, denied the petition. The Director concluded the Petitioner did not establish that the proffered position meets the requirements of a religious occupation under the regulations.

The matter is now before us on appeal. The Petitioner argues that it established the proffered position is a religious occupation and that the Director took too simplistic a view of the responsibilities of the job. It submits additional evidence on appeal.

Upon *de novo* review, we will dismiss the appeal.

I. RELEVANT LAW AND REGULATIONS

Non-profit religious organizations may petition for foreign nationals to work in the United States temporarily to perform religious work. The petitioning organizations, and the foreign nationals who are the beneficiaries of this nonimmigrant visa, must meet certain eligibility criteria.

Section 101(a)(15)(R) of the Act pertains to a foreign national 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).

The regulation at 8 C.F.R. § 214.2(r)(1) states, part:

(1) 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 regulation at 8 C.F.R. § 214.2(r)(3) provides, in pertinent part, the following definition:

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.

The regulation at 8 C.F.R. § 214.2(r)(11) addresses evidence relating to compensation. For beneficiaries who will financially support themselves, the Petitioner must establish the following for self-support:

(A) If the alien will be self-supporting, the petitioner must submit documentation establishing that the position the alien will hold is part of an established program for temporary, uncompensated missionary work, which is part of a broader international program of missionary work sponsored by the denomination.

(B) An established program for temporary, uncompensated work is defined to be a missionary program in which:

- (1) Foreign workers, whether compensated or uncompensated, have previously participated in R-1 status;
- (2) Missionary workers are traditionally uncompensated;
- (3) The organization provides formal training for missionaries; and
- (4) Participation in such missionary work is an established element of religious development in that denomination.

(C) The petitioner must submit evidence demonstrating:

- (1) That the organization has an established program for temporary, uncompensated missionary work;
- (2) That the denomination maintains missionary programs both in the United States and abroad;
- (3) The religious worker's acceptance into the missionary program;
- (4) The religious duties and responsibilities associated with the traditionally uncompensated missionary work; and
- (5) Copies of the alien's bank records, budgets documenting the sources of self-support (including personal or family savings, room and board with host families in the United States, donations from the denomination's churches), or other verifiable evidence acceptable to USCIS [U.S. Citizenship and Immigration Services].

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II. PERTINENT FACTS AND PROCEDURAL HISTORY

On the Form I-129, Petition for a Nonimmigrant Worker, the Petitioner indicated it seeks to employ the Beneficiary as a liaison officer to:

Attend weekly meeting with Church officials and the [REDACTED] to facilitate communication efforts between the two parties. Church officials will need to seek decisive responses from [REDACTED] in regards to deciding Church matters worldwide that serve to lead the Church spiritually including Church policy, rules, and regulations, and the approval of the ordination of Buddhist monks.

The Petitioner stated that the position does not receive a salary or in-kind compensation, but that the Beneficiary would financially support herself. The President of the church, [REDACTED], explained that [REDACTED] had strokes many years ago and, as a result, he is unable to speak clearly, uses a wheelchair, and depends on other medical equipment. [REDACTED] stated that the Beneficiary is [REDACTED] sister, "who has the ability to understand [REDACTED] speech because she has been his main caretaker for many, many years." He clarified that the Beneficiary's "role is to accurately represent and transcribe to Church officials [REDACTED] responses to Church officials' questions. . . ." He also stated that the Beneficiary is able to self-support using her personal funds, and that [REDACTED] has a substantial amount of funds to help support his sister. In support of the petition, the Petitioner submitted evidence, including but not limited to: a summary of the responsibilities of the church's volunteers; its organizational chart; a page from a 1973 publication discussing the Buddhist church; copies of bank account statements; and an affidavit from [REDACTED]

The Director issued a request for evidence (RFE) seeking, in part, additional documentation of self-support. Specifically, the Director requested documents establishing that the proffered position is part of an established program for temporary, uncompensated missionary work, which is part of a broader international program of missionary work sponsored by the denomination. In addition, the Director sought evidence that the proffered position qualifies as a religious occupation. The Petitioner responded to the RFE and submitted, among other things, an updated letter from [REDACTED] and a daily schedule for the proffered position.

The Director denied the petition, concluding the Petitioner did not establish the proffered position is a religious occupation. She found that the position appeared to be that of an interpreter or translator and that [REDACTED] and not the Beneficiary, continued to inculcate or carry out the religious creed and beliefs of the denomination. The Director stated that the duties of the proffered position were primarily administrative and supportive in nature, and the job itself did not primarily relate to a religious function.

On appeal, the Petitioner contends that the Beneficiary would not merely be a translator, but that her ability to interpret [REDACTED] wisdom and put it into a religious context consistent with the Church's beliefs is a "gift." The Petitioner argues that the proffered position is "[l]ike a religious

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teacher or instructor who must carry out religious creed and beliefs of the denomination through interpretation of religious texts” It submits an additional statement from [REDACTED] and a printout from Wikipedia discussing the attributes of a competent translator.

As part of our *de novo* authority, we have reviewed the entire record of proceedings before us. For the reasons discussed below, we find that the proffered position does not meet the regulatory definition of a religious occupation. Although not addressed in the Director decision, we also find that the Petitioner has not sufficiently established that the Beneficiary will be self-supporting, as required by the regulations.

III. ANALYSIS

A. Religious Occupation

The record does not show that the proffered position’s job duties primarily relate to a traditional religious function or that they involve inculcating or carrying out the religious beliefs of the denomination. According to [REDACTED] affidavit, his health problems have caused him to be very dependent on his sister, the Beneficiary, who has his medical and financial power of attorney. He states that she acts as his full-time caretaker, advisor for his business affairs, and liaison for the church. He explains that he recently became a U.S. permanent resident as an investor. He contends that his business obligations require him to attend meetings frequently and that his sister attends these meetings for him when he is physically unable to do so.

The record also includes a daily schedule of the proffered position’s job duties which indicates that the Beneficiary will meet with [REDACTED] and other church members for three hours every day to “[t]ranscribe and assist in analysis of [REDACTED] communication.” The schedule also states the Beneficiary will attend daily service and meditation for one hour every day. In addition, the record includes a document called “Ratification and Consent,” which shows that the job duties of the liaison officer include attending daily meetings, facilitating communication, and representing and transcribing [REDACTED] responses to questions. The record further includes a printout from Wikipedia that defines “Translators.” This Wikipedia printout states that competent translators have attributes including, but not limited to, “familiarity with the subject matter of the text being translated, a profound understanding of the etymological and idiomatic correlates between the two languages,” and knowledge of when to translate literally versus when to paraphrase. It emphasizes that “[a] competent translator is not only bilingual but bicultural” and that the complexity of a translator’s task cannot be overstated.

We acknowledge the nuances and importance of translators. Nonetheless, we do not find that the job duties for the proffered position equate to inculcating or carrying out the church’s religious creed and beliefs. Rather, the record indicates that [REDACTED] is not easily understood and, as the only person who can understand him, the Beneficiary’s responsibility is to repeat his words to others. The Petitioner has not specifically addressed how the proffered position of liaison officer involves, for example, indoctrinating, interpreting, expounding, instructing, or instilling the religious beliefs of the church rather than merely relaying the words from her brother, [REDACTED]. Moreover, considering “Wikipedia cannot guarantee the validity of the information” on its website, we find the Wikipedia

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printout to be of limited probative value. *See General Disclaimer*, Wikipedia, May 9, 2016, http://en.wikipedia.org/wiki/Wikipedia:General_disclaimer; *see also Badasa v. Mukasey*, 540 F.3d 909, 910 (8th Cir. 2008) (“Wikipedia describes itself as ‘the free encyclopedia that anyone can edit’”).

Furthermore, the record does not show that the proffered position of liaison officer is recognized as a religious occupation within the denomination, as required under 8 C.F.R. § 214.2(r)(3)(A). The Petitioner states that it has no employees, but rather, multiple volunteers who donate their time to the church and receive no salary. It submits a list of nine volunteer positions: Dharma Propagation Officer, Ritual Conductor, Vinaya Superintendent, Inspector General, Social Affairs Officer, Treasurer, Secretary General, Monks, and Nuns. With the exception of monks and nuns, all of these positions are also listed in the Petitioner’s bylaws in the record. Neither the list of volunteer positions nor the bylaws indicate that the church recognizes the position of liaison officer.

Similarly, the record includes a page that appears to be photocopied from a 1973 publication describing the organization of the church. This page discusses a Board of Dharma Propagation, Board of Dharma Affairs, Board of Vinaya, Board of Regulations, Board of Social Interaction, Board of Treasury, and a Board of Secretarial Affairs. This structure parallels the volunteer positions listed above. Again, there is no mention of liaison officer. Instead, the record indicates that the position of liaison officer is a new position that was created specifically for the Beneficiary. The record includes a copy of the Petitioner’s “Ratification and Consent,” stating that due to [REDACTED] “increasing difficulty in communicating verbally[,] . . . a new position of Liaison Officer [was] created” and offered to the Beneficiary. Therefore, the proffered position is not one that has been recognized by the denomination as a religious occupation, but rather, one that has been newly created specifically for the Beneficiary. Accordingly, we find that the Petitioner has not established by a preponderance of the evidence that the proffered position meets the regulatory definition of a religious occupation as defined in 8 C.F.R. § 214.2(r)(3).

Because we do not find that the job duties of the proffered position involve conducting the activities of a religious worker, we also find that the Petitioner has not established that the Beneficiary will be conducting the activities of a religious worker at least 20 hours per week, as required by 8 C.F.R. § 214.2(r)(1)(ii).¹ Moreover, as [REDACTED] stated, the Beneficiary acts as his caretaker and assists him with his business investments. As such, the Petitioner has not shown that the Beneficiary would be coming to the United States solely to perform a religious occupation or that she would not work in any other capacity, as mandated by 8 C.F.R. § 214.2(r)(1)(iii) and (v).

B. Self-Support

Although not addressed by the Director, we find that the Petitioner has not met the requirements at 8 C.F.R. § 214.2(r)(11)(ii) to establish that the Beneficiary will support herself financially during her temporary period of employment as a religious worker in the United States. The regulation specifies

¹ Although the Petitioner contends that the Beneficiary must translate for [REDACTED] by attending daily meetings, according to the letter [REDACTED] initially submitted with the petition, dated October 20, 2014, these church meetings occur on a weekly, not daily, basis.

that “the petitioner must submit documentation establishing that the position the alien will hold is part of an established program for temporary, uncompensated missionary work, which is part of a broader international program of missionary work sponsored by the denomination.” *See* 8 C.F.R. § 214.2(r)(11)(ii)(A). The Director specifically required such evidence in the RFE. However, there is no evidence in the record that the church has an international program of missionary work or that the Beneficiary will participate in missionary work. The bylaws do not mention an international missionary program and there is no other relevant evidence in the record regarding missionary work. Although the record includes copies of the Beneficiary’s bank account statements, this documentation alone is insufficient to meet all of the requirements of 8 C.F.R. § 214.2(r)(11).

IV. CONCLUSION

The Petitioner has not established that the proffered position is a religious occupation, that the Beneficiary will be conducting the activities of a religious worker at least 20 hours per week, or that she would be coming to the United States solely to perform a religious occupation. In addition, the Petitioner has not established that the Beneficiary would be self-supporting as the Petitioner has not shown that the proffered position is part of an established program for temporary, uncompensated missionary work that is part of a broader international program of missionary work sponsored by the denomination.

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, the Petitioner has not met that burden.

ORDER: The appeal is dismissed.

Cite as *Matter of T-B-C-O-T-S-L-H-A-, USA*, ID# 16423 (AAO May 17, 2016)