



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

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

MATTER OF L-B-C-

DATE: NOV. 4, 2016

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

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

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

The Director of the California Service Center denied the petition. The Director found the Petitioner did not establish that Beneficiary will be employed in a qualifying position, or that he is qualified to serve as a minister.

The matter is now before us on appeal. In its appeal, the Petitioner submits additional materials and argues that the Director erred in interpreting the evidence it initially provided.

Upon *de novo* review, we will sustain 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 other religious occupations. The petitioning organization must establish that the foreign 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 U.S.C. § 1101(a)(15)(R).

The implementing regulation at 8 C.F.R. § 214.2(r)(1) requires that to be approved for temporary admission to the United States, or extension of status, a foreign national 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.

## II. ANALYSIS

In denying the petition, the Director determined the Petitioner did not submit evidence demonstrating the position qualifies as a ministerial one. The Director also concluded the record lacked documentation establishing the Beneficiary is qualified to occupy a ministerial position. For the reasons discussed below, and based on new evidence offered on appeal, we find the Petitioner has established eligibility for the benefit sought.

The regulation at 8 C.F.R. § 214.2(r)(3) defines the term “minister” as 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.

In addition to demonstrating that the offered position meets the above definition, a petitioner must establish the beneficiary is qualified for a ministerial position by submitting the specific forms of documentation listed at 8 C.F.R. § 214.2(r)(10):

- (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

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- (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.

The Petitioner initially indicated within its statement accompanying the petition that the Beneficiary is qualified for the position of minister. It explained that the Beneficiary obtained a diploma in ministry from [REDACTED] in South Africa and that he was ordained as a minister in [REDACTED]. Subsequent to entering the United States, the Beneficiary obtained a Master of Divinity and his Doctor of Ministry degrees at [REDACTED]. The material submitted in support of the Beneficiary's qualifications for the offered position consisted of his education certificates and a transcript; a Provisional Official Worker License; the Petitioner's bylaws; and a letter from its treasurer, [REDACTED].

The Director issued a request for evidence (RFE) noting the provisional license did not appear to demonstrate the Beneficiary was qualified to serve as a minister according to the denomination's standards as he was not yet ordained. In response, the Petitioner offered a letter from [REDACTED] the denomination's Superintendent of the [REDACTED] and an excerpt from the denomination's manual. The Director found this material insufficient, stating that "[a]ccording to the evidence of record, your denomination does have an ordination process, but the [B]eneficiary has not been ordained, but is only provisionally licensed as part of a preparatory mentorship program for those interested in becoming ordained."<sup>1</sup> When discussing this element within the decision, the

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<sup>1</sup> We do not agree with a portion of the Director's reasoning in her statement that the regulation at 8 C.F.R. § 214.2(r)(10) requires "submission of the [B]eneficiary's certificate of ordination, or for denominations that do not have an ordination process, similar evidence of authorization." The plain language of the cited regulation does not mandate that any religious organization with an ordination process must submit a beneficiary's ordination certificate. Rather, it allows organizations to offer "similar documents reflecting acceptance of the alien's qualifications as a minister in the religious denomination." The ability to submit similar documents that reflect acceptance of a beneficiary's qualifications as a minister is not limited to religious organizations without an ordination process.

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Director cited to the regulation at 8 C.F.R. § 214.2(r)(10). The Director focused on the provisional nature of the Beneficiary's license and the fact that it had an expiration date.

Within the appeal brief, the Petitioner notes that [REDACTED] initial letter explained that a grant of a provisional license, such as the Beneficiary's, qualifies a person for a clergy role within the denomination. The Petitioner contends that this information refuted the Director's ultimate determination that the Beneficiary was not qualified for the position. On appeal, the Petitioner also provides two letters from [REDACTED] a letter from [REDACTED] Clerk of the Licensing, Ordination, and Consecration Council for the denomination's [REDACTED] and a portion of the denomination's 2016 Manual of the Christian and Missionary Alliance.<sup>2</sup>

The issue is not whether the Beneficiary has received an ordination certificate, but whether the evidence demonstrates that the offered position satisfies the definition of a minister, and that the Beneficiary is qualified to serve as a minister according to the denomination's requirements.<sup>3</sup> Information within the petition established that the position offered to the Beneficiary met the definition of a minister. Further, [REDACTED] letter offered within the RFE response stated that both the provisional license and the ordained license authorize an individual to serve in a clergy role. His letter accompanying the appeal contains greater detail explaining that the Beneficiary is qualified and authorized to administer the religious rituals of the church and to carry out other duties of the clergy. [REDACTED] April 2016 appellate letter also reflects the Beneficiary has been assessed and deemed qualified to serve as a pastor within the denomination. [REDACTED] letter on appeal affirms that the provisional license grants the Beneficiary clergy status within the denomination and gives him full authority to serve as a minister. This information is consistent with the text of the denomination's Uniform Policy on Licensing and Certification within its 2016 manual. When considered together, the evidence is sufficient to establish eligibility.

Based on a review of the full record, the Petitioner has sufficiently overcome the Director's determination relating to the Beneficiary's qualifications to serve in a ministerial position for the Petitioner. We therefore withdraw the Director's decision on this issue.

Finally, we note that the Petitioner indicated its intent to employ the Beneficiary from January 2016 through June 2018. The Director stated within the decision that, because the Beneficiary's provisional license expired in December 2015, he was not provisionally or temporarily qualified for employment during the requested period. Evidence offered on appeal addresses the Director's concerns. Specifically, the denomination's 2016 manual describes a renewal process for those holding a provisional license and [REDACTED] indicates his intention to reissue the provisional license for 2017 and beyond if the Beneficiary has not already been ordained. As a result, we

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<sup>2</sup> Subsequent to filing the appeal, the Petitioner has additionally provided the Beneficiary's ordination certificate from the [REDACTED] and his Ordained Official Worker License, both of which were issued on October 20, 2016. As eligibility must be established at the time of filing the petition, we will consider the Beneficiary's qualifications as of October 30, 2015. 8 C.F.R. § 103.2(b)(1), (12); see also *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971).

<sup>3</sup> 8 C.F.R. § 214.2(r)(3) and 8 C.F.R. § 214.2(r)(10) respectively.

conclude the provisional license expiration will not serve as an impediment to the Beneficiary's eligibility, and we withdraw the Director's determination on this issue.

### III. CONCLUSION

For the reasons discussed above, the Petitioner has established that the position meets the definition of a minister and that the Beneficiary is sufficiently qualified for the position according to the denomination's standards. Accordingly, the Petitioner has met its 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).

**ORDER:** The appeal is sustained.

Cite as *Matter of L-B-C-*, ID# 10240 (AAO Nov. 4, 2016)