



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

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

MATTER OF T-L-

DATE: OCT. 15, 2015

APPEAL OF NATIONAL BENEFITS CENTER DECISION

APPLICATION: N-470, APPLICATION TO PRESERVE RESIDENCE FOR  
NATURALIZATION PURPOSES

The Applicant seeks to preserve her residence for naturalization purposes under section 316(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1427(b). The National Benefits Center Director denied the application. The Applicant has been a lawful permanent resident since August 2, 1997. She filed a Form N-470, Application to Preserve Residence for Naturalization Purposes, on September 2, 2014, stating that her absence from the United States is on behalf of a denomination or mission having a bona fide organization in the United States in which she performs ministerial or priestly functions or is in a sole capacity of a clergywoman, missionary, nun or sister. The matter is now before us on appeal. The appeal will be dismissed.

I. ELIGIBILITY TO PRESERVE RESIDENCE FOR  
NATURALIZATION PURPOSES

A. The Law

Section 316(a)(1) of the Act, 8 U.S.C. § 1427(a)(1), provides in pertinent part that:

No person . . . shall be naturalized, unless such applicant, (1) immediately preceding the date of filing his application for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least five years and during the five years immediately preceding the date of filing his application has been physically present therein for periods totaling at least half of that time[.]

Section 317 of the Act, 8 U.S.C. § 1428, provides an exception to the continuous residence and physical presence requirements set forth in section 316 of the Act, and states that:

Any person who is authorized to perform the ministerial or priestly functions of a religious denomination having a bona fide organization within the United States, or any person who is engaged solely by a religious denomination or by an interdenominational mission organization having a bona fide organization within the United States as a missionary, brother, nun, or sister, who

- (1) has been lawfully admitted to the United States for permanent residence,
- (2) has at any time thereafter and before filing an application for naturalization been physically present and residing within the United States for an uninterrupted period of at least one year, and
- (3) has heretofore been or may hereafter be absent temporarily from the United States in connection with or for the purpose of performing the ministerial or priestly functions of such religious denomination, or serving as a missionary, brother, nun, or sister, shall be considered as being physically present and residing in the United States for the purpose of naturalization within the meaning of section 316(a), notwithstanding any such absence from the United States, if he shall in all other respects comply with the requirements of the naturalization law. Such person shall prove to the satisfaction of the Attorney General that his absence from the United States has been solely for the purpose of performing the ministerial or priestly functions of such religious denomination, or of serving as a missionary, brother, nun, or sister.

Section 316.5(d)(i) of the Act provides, in pertinent part that:

[A]n application for the residence benefits under section 316(b) of the Act to cover an absence from the United States for a continuous period of one year or more shall be submitted to the Service on Form N-470 with the required fee, in accordance with the form's instructions. The application may be filed either before or after the applicant's employment commences, but must be filed before the applicant has been absent from the United States for a continuous period of one year.

## B. Analysis

The Applicant filed a Form N-470, Application to Preserve Residence for Naturalization Purposes, on September 2, 2014, stating that her absence from the United States is on behalf of a denomination or mission having a bona fide organization in the United States in which she performs ministerial or priestly functions or is in a sole capacity of a clergywoman, missionary, nun or sister. On the application in Section 14, in response to the question regarding the employment position requiring her absence from the United States and the intended length of employment, the Applicant stated "[t]aking care of my parents, my father is 94 years of age and mother is 89 years of age." The Applicant did not provide any supporting evidence with the application.

On October 29, 2014, the Director sent a request for evidence (RFE) requesting additional evidence of the Applicant's employment abroad and eligibility for the benefit sought. In the denial decision dated February 11, 2015, the Director noted that the Applicant failed to respond to the request for evidence. On appeal, the Applicant stated that the response to the RFE was sent in November 2014

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"however the communication by mail at that time in [REDACTED] was hard due to the [REDACTED] Post Office building undergoing renovation." The Applicant submitted new documentation; however, the Applicant has not submitted sufficient evidence to establish eligibility for the benefit sought.

On appeal, the Applicant submitted a letter dated February 20, 2015, from the Reverend of the Methodist Church in [REDACTED]. The letter stated that the Applicant is "currently employed by the [REDACTED] as the Principal at our [REDACTED] Kindergarten," and that she "runs the preschool for the community under the Church's trust for about 14 years now." The letter stated that the Applicant is a principal of a preschool and does not state that the Applicant performs ministerial or priestly functions or is in a sole capacity of a clergywoman, missionary, nun or sister. Accordingly, the record is not persuasive in establishing that the applicant is authorized to perform ministerial, priestly, or missionary functions of a religious denomination having a bona fide organization within the United States.

Furthermore, the record does not establish what the beneficiary will do during her absence from the United States. Accordingly, the record is not persuasive in establishing that her absences from the United States were, or will be, connected with the ministerial, priestly, or missionary functions of a religious denomination.

In addition, the regulations state that an N-470 application may be filed either before or after the applicant's employment commences, but must be filed before the applicant has been absent from the United States for a continuous period of one year. According to the letter submitted on appeal by the Reverend of the Methodist Church in [REDACTED] he stated that the beneficiary "runs the preschool for the community under the Church's trust for about 14 years now." The letter also stated that "she used to ask for special leave in the past to travel overseas, but at the moment, [the Applicant] has a major responsibility[y] in looking after her inlaws both in their 80 and 90 years of age." Thus, according to the letter submitted on appeal, it appears that the Applicant has been outside of the United States for over a year and she filed the Form N-470 after the Applicant was absent from the United States for a continuous period of one year. For the above stated reasons, the Director properly denied the applicant's N-470 application.

## II. CONCLUSION AND ORDER

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.<sup>1</sup>

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<sup>1</sup> As the identified grounds of ineligibility are dispositive of the petitioner's appeal, we need not address any additional issues in the record of proceeding

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**ORDER:** The appeal is dismissed.

Cite as *Matter of T-L-*, ID# 13890 (AAO Oct. 15, 2015)