



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

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

In Re: 20628937

Date: JUN. 6, 2022

Appeal of California Service Center Decision

Form I-129, Petition for Nonimmigrant Worker (Religious Worker – R-1)

The Petitioner, a religious organization, seeks to classify the Beneficiary as an R-1 nonimmigrant religious worker to perform services as a Buddhist nun. *See* Immigration and Nationality Act (the Act) Section 101(a)(15)(R), 8 U.S.C. § 1101(a)(15)(R). This nonimmigrant R-1 classification allows non-profit religious organizations, or their affiliates, to temporarily employ foreign nationals as ministers, in religious vocations, or in religious occupations in the United States.

The Director of the California Service Center denied the petition on ground that the Petitioner did not satisfactorily complete a pre-approval on-site inspection that U.S. Citizenship and Immigration Services (USCIS) relied on to verify supporting evidence. *See* 8 C.F.R. § 214.2(r)(16) (2016). The Petitioner appeals, claiming in a short statement that USCIS failed to use the correct telephone number to reach [REDACTED] an individual who purportedly was in charge of a congregation in China, where the Beneficiary “began to propagate [*sic*] Buddha Dharma.” The Petitioner maintains that it has shown eligibility to classify the Beneficiary as an R-1 nonimmigrant religious worker.

In these proceedings, it is the Petitioner’s burden to establish, by a preponderance of the evidence, 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*Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010).¹ Upon *de novo* review, the decision of the Director is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.

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 religious occupations. The petitioning organization must establish, among other requirements, 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 C.F.R. § 214.2(r).

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. § 214.2(r)(16) provides:

Inspections, evaluations, verifications, and compliance reviews. The supporting evidence submitted may be verified by USCIS through any means determined appropriate by USCIS, up to and including an on-site inspection of the petitioning organization. The inspection may include a tour of the organization's facilities, an interview with the organization's officials, a review of selected organization records relating to compliance with immigration laws and regulations, and an interview with any other individuals or review of any other records that the USCIS considers pertinent to the integrity of the organization. An inspection may include the organization headquarters, or satellite locations, or the work locations planned for the applicable employee. If USCIS decides to conduct a pre-approval inspection, satisfactory completion of such inspection will be a condition for approval of any petition.

II. ANALYSIS

As discussed in the Director's decision, the Petitioner filed the R-1 nonimmigrant petition for the Beneficiary in February 2016. The petition and the accompanying R-1 Classification Supplement indicate that the Petitioner seeks to employ the Beneficiary as a Buddhist nun and intends to compensate her with an annual wage of \$3,000 and "[a]ll necessary accommodations, including room and board, daily living and travel expenses, and medical insurance."

The Director's decision explains that the record includes a 2016 "Employment Certificate," which claims that the Beneficiary "has been working as a religious volunteer worker at [REDACTED] [REDACTED] since January 2013." The document is executed by [REDACTED] who is purportedly the "Chair Person" of the center. In January 2019, USCIS conducted an overseas investigation at the location where the documentation claims houses [REDACTED]. The overseas investigator reported the following:

- There is no public information found for [REDACTED],
- The Buddhist symbol in the Employment Certificate provided by [REDACTED] [REDACTED] is not the correct Buddhist sign.
- The [REDACTED] Province address listed in the "Employment Certificate" provided by [REDACTED] is a civil residence and the room number 28 does not exist.
- There is no sign of [REDACTED] at the address provided in the "Employment Certificate."
- The contact numbers provided in the "Employment Certificate" are not in service.

When confronted with the above information in the Director's notice of intent to deny (NOID) the petition, the Petitioner submitted a response, claiming that due to an incident with the public security, [REDACTED] which is also known as [REDACTED] was forced

to close in June 2016. This claim, however, does not explain why room number 28 does not exist at the civil residence property, where the Beneficiary claims housed [REDACTED]

In its NOID response, the Petitioner submitted a May 2020 letter purportedly from [REDACTED] the same individual who supposedly executed the “Employment Certificate,” stating that “[his] phony [sic] number is: [REDACTED]” and inviting USCIS to contact him to verify the Petitioner’s evidence. The letter does not specify if the telephone number is registered in China, in the United States or in another country. As discussed in the Director’s decision, in January 2021, USCIS, assuming that it is a United States telephone number, attempted to contact [REDACTED] but reached, via text messages, an individual who was not [REDACTED]. The individual indicated that he or she had the telephone number since around 2019. On appeal, the Petitioner asserts that USCIS failed to use the correct telephone number to reach [REDACTED]. The Petitioner, however, does not explain how the number listed in the May 2020 letter that was purportedly written by [REDACTED] could include an incorrect contact number for the individual. The Petitioner also does not provide any additional information on how to reach [REDACTED]

Based on the above, the Director concluded that the Petitioner did not satisfactorily completed a pre-approval on-site inspection, because the overseas investigation, as well as USCIS’s subsequent attempts to contact [REDACTED] failed to verify the information contained in the Beneficiary’s “Employment Certificate.” See 8 C.F.R. § 214.2(r)(16). The Director, however, has not sufficiently explained how an overseas investigation on the Beneficiary’s former employer constitutes an “on-site inspection of the petitioning organization.” 8 C.F.R. § 214.2(r)(16). Moreover, the Director has not sufficiently articulated the relevance of the Beneficiary’s prior work experience in the adjudication of the instant R-1 nonimmigrant religious worker petition, which does not require a showing that the Beneficiary has had prior religious work experience.

Notwithstanding the above deficiencies in the Director’s decision, the Petitioner does not appear to have demonstrated eligibility for the R-1 nonimmigrant petition. Specifically, the regulation at 8 C.F.R. § 214.2(r)(1)(i) requires the Petitioner to show that the Beneficiary has been “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.” Additionally, the regulation at 8 C.F.R. § 214.2(r)(8)(ii) requires the Petitioner to attest that the Beneficiary “has been a member of the denomination for at least two years and that the alien is otherwise qualified for the position offered.” It appears that the Petitioner offered the 2016 “Employment Certificate” to satisfy the requirements under 8 C.F.R. § 214.2(r)(1)(i) and (8)(ii). As USCIS has been unable to verify the authenticity and veracity of the “Employment Certificate,” it appears that the Petitioner has not established that it meets the requirements under 8 C.F.R. § 214.2(r)(1)(i) and (8)(ii).

As the Director has not had an opportunity to consider the Petitioner’s claim on appeal that USCIS did not use a correct telephone number to contact [REDACTED], and did not consider whether the Petitioner had satisfied the requirements under 8 C.F.R. § 214.2(r)(1)(i) and (8)(ii), which are relevant to the Petitioner’s eligibility for the petition, we will remand the matter for the Director’s consideration and entry of a new decision.

III. CONCLUSION

Upon remand, the Director should consider whether the Petitioner has established eligibility to classify the Beneficiary as a nonimmigrant religious worker, including whether it has satisfied the requirements under 8 C.F.R. § 214.2(r)(1)(i) and (8)(ii). In addition, the Director should consider whether an on-site inspection of the petitioning organization, including the Beneficiary's intended place of work, is appropriate. *See* 8 C.F.R. § 214.2(r)(16).

ORDER: The decision of the Director is withdrawn. The matter is remanded for the entry of a new decision consistent with the foregoing analysis.