



CI

U.S. Department of Justice
Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



Public Copy

File: [Redacted] Office: Vermont Service Center

Date: AUG 14 2001

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

Petition: Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the "Act"), 8 U.S.C. 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. 1101(a)(27)(C)

IN BEHALF OF PETITIONER: [Redacted]

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann
for Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Director, Vermont Service Center. An appeal was dismissed by the Associate Commissioner for Examinations. The matter is again before the Associate Commissioner on motion to reopen/reconsider. The motion will be dismissed.

The petitioner is a religious organization affiliated with the United States Catholic Conference. It seeks classification of the beneficiary as a special immigrant minister pursuant to section 203(b)(4) of the Immigration and Nationality Act (the "Act"), 8 U.S.C. 1153(b)(4), in order that he may serve as a priest with an affiliated church in Texas.

The petitioner filed a Form I-360 petition for special immigrant classification on August 13, 1999. The petition was denied in a decision dated August 1, 2000. The petition was denied on the grounds that the beneficiary had not been carrying on the vocation of a priest for at least two years preceding the filing of the petition as required by 8 C.F.R. 204.5(m)(1).

The decision was affirmed by the Associate Commissioner, by and through the Director, Administrative Appeals Office ("AAO"), in a decision dated December 8, 2000. In the decision it was determined that the beneficiary must have been continuously carrying on the vocation of a Catholic priest since at least August 13, 1997 in order to satisfy the two-year prior experience requirement. The AAO held that since the beneficiary was ordained as a priest on January 17, 1999, he could not have satisfied the prior experience requirement.

On motion, counsel argues that the Service should consider the beneficiary's prior experience as a pastoral intern and deacon as satisfying the prior experience requirement.

According to 8 C.F.R. 103.5(a)(3), a motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. To prevail on a motion for reconsideration, the petitioner must establish that the prior decision rests on an incorrect application of law, so that the decision "was incorrect based on the evidence of record at the time of the initial decision." Id.

On review of the record, it is concluded that there was no incorrect application of law in the prior decision. The beneficiary is a priest and the petitioner seeks to employ him in that capacity. Therefore, he must have two years of experience in that capacity. Experience gained as an intern or deacon, that are not recognized as having the ministerial authority of a priest, may not be substituted.



The petitioner is free to file a new petition when the requisite experience can be demonstrated.

ORDER: The motion is dismissed.