



**DISCUSSION:** The immigrant visa petition was denied by the Director, Vermont Service Center. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a church. It seeks classification of the beneficiary as a 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), to serve as an assistant/helper to the pastor. The director denied the petition determining that the petitioner had failed to establish the beneficiary's two years of continuous religious work experience.

On appeal, the petitioner argues that the beneficiary is eligible for the benefit sought.

Section 203(b)(4) of the Act provides classification to qualified special immigrant religious workers as described in section 101(a)(27)(C) of the Act, 8 U.S.C. 1101(a)(27)(C), which pertains to an immigrant who:

(i) for at least 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;

(ii) seeks to enter the United States--

(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

(II) before October 1, 2003, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

(III) before October 1, 2003, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Code of 1986) at the request of the organization in a religious vocation or occupation; and

(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i).

At issue in the director's decision is whether the petitioner has established that the beneficiary had two years of continuous work experience in the proffered position.

8 C.F.R. 204.5(m)(1) states, in pertinent part, that:

All three types of religious workers must have been performing the vocation, professional work, or other work continuously (either abroad or in the United States) for at least the two year period immediately preceding the filing of the petition.

The petition was filed on November 18, 1998. Therefore, the petitioner must establish that the beneficiary had been continuously working in the prospective occupation for at least the two years from November 18, 1996 to November 18, 1998.

In a letter dated October 17, 1998, the petitioner stated that the beneficiary "has been an active Christian Worker for over fifteen (15) years." In a letter dated April 11, 1998, the Island Overseer of the New Testament Church of God in Jamaica stated that the beneficiary "has been a Christian worker in active service attached to the New Testament Church of God in Jamaica for *fifteen (15) years.*"

On May 4, 1999, the director requested that the petitioner submit evidence of the beneficiary's work experience during the two-year period prior to filing. In response, the Church Clerk at the Bethel New Testament Church of God in Jamaica stated that the beneficiary "has been employed to our church since September 1, 1995 to present, in the position of Assistant to the Pastor. She works full-time and is in receipt of a monthly salary of \$18,000.00 (\$514.43 U.S.)."

On appeal, the pastor at the Bethel New Testament Church of God in Jamaica states that the beneficiary "receives her wages in cash and she simply signs on our records for receiving such payments. No pay receipts are [sic] other form of record is available." The petitioner submits statements from three congregants at the beneficiary's church in Jamaica who assert that the beneficiary is a "full time religious worker."

The petitioner has submitted statements from individuals in Jamaica who claim that the beneficiary was a full-time, salaried employee at her church. The petitioner has not submitted any contemporary, documentary evidence to support these assertions. The beneficiary's purported employer claims that she was paid in cash; however, this does not excuse the lack of corroborating evidence (such as time sheets, church financial statements, or bank statements showing regular deposits and/or withdrawals). Simply

going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. See Matter of Treasure Craft of California, 14 I&N Dec. 190 (Reg. Comm. 1972). As such, the petitioner has not documented that the beneficiary was continuously engaged in a religious occupation from November 18, 1996 to November 18, 1998. The objection of the director has not been overcome on appeal. Accordingly, the petition may not be approved.

Beyond the decision of the director, the petitioner has failed to establish that the prospective occupation is a religious occupation as defined at 8 C.F.R. 204.5(m)(2). Also, the petitioner has failed to establish its ability to pay the proffered wage as required at 8 C.F.R. 204.5(g)(2). As the appeal will be dismissed on the ground discussed, these issues need not be examined further.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has not sustained that burden.

**ORDER:** The appeal is dismissed.