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U.S. Department of Justice

Immigration and Naturalization Service

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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

[redacted]

File: [redacted] Office: Vermont Service Center Date: JUN 18 2002

IN RE: Petitioner:
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]

PUBLIC COPY

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

Myra L. Rosenberg

for Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Director, California Service Center, who certified the decision to the Associate Commissioner for Examinations for review. The decision will be affirmed.

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). The petitioner seeks to employ the beneficiary as a lay worker with duties including visiting church members, counseling church members, and playing the piano.

The petition was filed on August 15, 1994, and was denied by the center director on September 10, 1995. The director denied the petition on the grounds that the petitioner failed to establish that it was a qualifying tax exempt religious organization pursuant to 8 C.F.R. 204.5(m)(3)(i).

The petitioner filed an appeal and submitted proof of its tax exempt status. The Associate Commissioner, by and through the Director, Administrative Appeals Office ("AAO"), acknowledged receipt of the tax status documentation, but remanded the petition for review of additional grounds of ineligibility. The AAO noted that the record was insufficient to establish eligibility on four additional grounds. Those grounds of ineligibility were the failure to establish that the beneficiary had the requisite two years of continuous experience pursuant to 8 C.F.R. 204.5(m)(1), the failure to establish that the proposed position constituted a qualifying religious occupation pursuant to 8 C.F.R. 204.5(m)(2), the failure to specify the terms of remuneration pursuant to 8 C.F.R. 204.5(m)(4), and the failure to demonstrate the ability to pay a qualifying wage pursuant to 8 C.F.R. 204.5(g)(2).

The center director advised the petitioner of the documentary deficiencies of the petition in a notice dated September 12, 1997. Counsel for the petitioner responded to the notice. The director found that the evidence submitted was insufficient to satisfy the four eligibility requirements specified in the notice.

The director denied the petition in a decision dated July 3, 2001, and advised the petitioner of its right to submit supplemental information to the AAO. As of this date, there is no indication that the petitioner provided a supplemental brief or additional evidence.

On review of the record of proceeding, the center director denied the petition setting forth four grounds of ineligibility as noted above. The petitioner has not addressed the director's decision. Therefore, the decision of the director will be affirmed.

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

ORDER: The decision dated July 3, 2001, is affirmed. The petition is denied.