

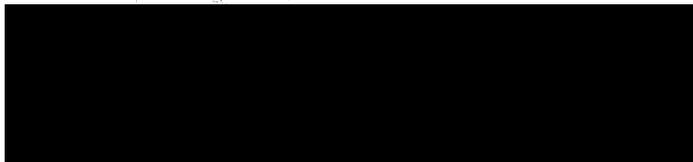
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U.S. Department of Homeland Security

Citizenship and Immigration Services

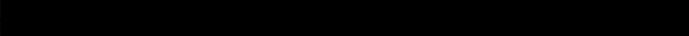
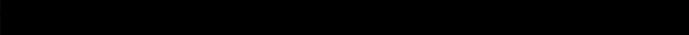
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ADMINISTRATIVE APPEALS OFFICE  
CIS, AAO, 20 Mass, 3/F  
425 I Street, N. W.  
Washington, DC 20536



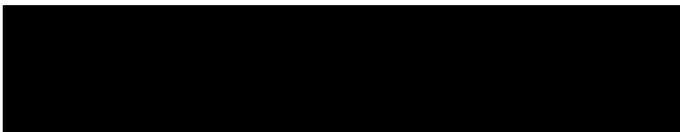
File:  Office: VERMONT SERVICE CENTER

Date: **DEC 18 2003**

IN RE: Petitioner:   
Beneficiary: 

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)

ON BEHALF OF PETITIONER:



**INSTRUCTIONS:**

This is the decision in your case. All documents have been returned to the office that 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 that 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 Citizenship and Immigration Services (CIS) 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

*Cindy N. Gomez for*  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner 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), in order to employ him as "minister of church planting."

The director determined that the petitioner had not established that the proffered position qualified as that of a religious occupation. The director also determined that the petitioner had not established that it qualified as a bona fide nonprofit religious organization.

On appeal, counsel argues that the reasons for the denial of the petition lack substance. Additional information has been submitted on appeal.

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, 2008, 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, 2008, 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 Revenue Code of 1986) at the request of the organization in a religious vocation or occupation;

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

Regulations at 8 C.F.R. § 204.5(m)(1) state, in pertinent part, that:

Such a petition may be filed by or for an alien, who (either abroad or in the United States) for at least the two years immediately preceding the filing of the petition has been a member of a religious denomination which has a bona fide nonprofit religious organization in the United States. The alien must be coming to the United States solely for the purpose of carrying on the vocation of a minister of that religious denomination, working for the organization at the organization's request in a professional capacity in a religious vocation or occupation for the organization or 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 Revenue Code of 1986 at the request of the organization. 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.

In order to establish eligibility for classification as a special immigrant religious worker, the petitioner must satisfy each of several eligibility requirements.

The first issue raised by the director to be discussed in this proceeding is whether the petitioner qualifies as a bona fide nonprofit religious organization as stated in 8 C.F.R. § 204.5(m).

The director found that the evidence submitted to establish that the petitioner had met the requirements to qualify as a bona fide nonprofit religious organization was not sufficient, as the document "did not indicate the same address as the one indicated on the petition."

On appeal, counsel provided a letter from the petitioner's reverend, which states that:

This is to confirm that The Gospel Faith Mission International with the headquarters at 3812 38<sup>th</sup> Street, Brentwood, Maryland started from 1400 5<sup>th</sup> street in Washington D.C. in November 1984. The Church tax exempt number and other relevant documents were obtained at that time with the District of Columbia

address.

The present 3812 building was acquired from the owner on September 30<sup>th</sup>, 1997 and refinanced in 1999. The assembly at 1400 5<sup>th</sup> Street Washington, D.C. had to be merged with the assembly at Brentwood because of the inability to secure a bigger place of worship for the growing congregation in the District of Columbia despite all efforts.

This necessitated moving the headquarters of the Gospel Faith Mission International (USA) from the 1400 5<sup>th</sup> Street to the acquired worship building at 3812 38<sup>th</sup> Street, Brentwood, Maryland.

Counsel also provided a copy of a letter, dated June 4, 2002, from the Internal Revenue Service, in response to the petitioner's request for a copy of its organization's "determination letter." The letter indicates that in June of 1991, the Internal Revenue Service issued a determination letter that recognized the petitioning organization as "exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code," and that the "letter is still in effect." It is noted that the June 4, 2002 letter listed the petitioner's current address.

The evidence presented is sufficient in demonstrating that the petitioning organization is a bona fide nonprofit religious organization. Consequently, the petitioner has overcome this portion of the director's decision.

Another issue raised by the director that shall be discussed in this proceeding is whether the job qualifies as a religious occupation.

Regulations at 8 C.F.R. § 204.5(m)(2) state, in pertinent part, that:

*Religious occupation* means an activity which relates to a traditional religious function. Examples of individuals in religious occupations include, but are not limited to, liturgical workers, religious instructors, religious counselors, cantors, catechists, workers in religious hospitals or religious health care facilities, missionaries, religious translators, or religious broadcasters. This group does not include janitors, maintenance workers, clerks, fund raisers, or persons solely involved in the solicitation of donations.

To establish eligibility for special immigrant classification, the petitioner must establish that the specific position that it is offering qualifies as a religious occupation as defined in the

above cited regulations. The statute is silent on what constitutes a "religious occupation" and the regulation states only that it is an "activity which relates to a traditional religious function."

CIS interprets the term "traditional religious function" to require a demonstration that the duties of the position are directly related to the religious creed or beliefs of the denomination, that the position is defined and recognized by the governing body of the denomination, and that the position is traditionally a permanent, full-time, salaried occupation within the denomination. CIS must consider each petition on its individual merits.

On appeal, counsel submitted a copy of the "The Gospel Faith Mission International, U.S.A. Minutes of the Meeting of the National Executive Board, U.S.A. August 25, 2000," which indicates, in pertinent part, that:

APPOINTMENT:

The Board of Elders of the Gospel Faith Mission International, U.S.A. hereby adopt a resolution creating the position of a Minister for Church Planting for the different areas of the United States of America, where the Gospel Faith Mission International to [sic] start and fund new churches, in course of propagating the gospel.

The positions are as follows:

Minister for Church Planting for Northeast Region, Pennsylvania, New Jersey and New England

Minister for Church Planting for Midwest Region, Arizona, Oklahoma, Chicago and Michigan

Minister for Church Planting for Southern Region, Georgia, Alabama, South Carolina, North Carolina to Texas

Minister for Church Planting for Western Region, California, Oregon and Washington

In this case the petitioner asserts that the position is full-time, and that the beneficiary is well qualified for it. The duties of the position were described as follows:

He will engage himself in surveying the area that will be suitable for a church in order to plant a church there.

After the church is started, he will be their first pastor and be preaching the word to the new members every week.

He will teach Sunday school every Sunday to the members of the church.

He will counsel new members and help them to seek and walk in the grace of God.

He will teach Wednesday Bible study class to the members.

He will lead Friday prayer meetings and night vigils.

He will teach new converts baptism and prepare them for water baptism as time goes on.

The petitioner has submitted no documentation that the position is a traditional full-time paid occupation in its denomination. 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). The above-mentioned August 25, 2000 Minutes of the Meeting indicates that four "minister for church planting" positions were created for various regions of the United States. Nevertheless, the record does not indicate that any of these positions actually exist. In addition, the petitioner has provided no official documentation, such as the church's by-laws, recognizing this structural change in the organization. This set of facts is insufficient to establish that the proposed position is a traditional religious occupation of the petitioning church. Therefore, the petition must be denied.

Beyond the decision of the director, the petitioner has not demonstrated that the beneficiary has been continuously carrying on a religious occupation for at least the two years preceding the filing date of the petition, or that the beneficiary qualifies for the position of religious worker. Further, the petitioner has not sufficiently demonstrated its ability to pay the offered wage. As the appeal will be dismissed on the grounds discussed, these issues need not be examined further.

In reviewing an immigrant visa petition, the CIS must consider the extent of the documentation furnished and the credibility of that documentation as a whole. The petitioner bears the burden of proof in an employment-based visa petition to establish that it will employ the alien in the manner stated. See *Matter of Izdebska*, 12 I&N Dec. 54 (Reg. Comm. 1966); *Matter of Semerjian*, 11 I&N Dec. 751 (Reg. Comm. 1966).



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.