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U.S. Department of Homeland Security  
Citizenship and Immigration Services

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

PUBLIC COPY

[Redacted]

File:

[Redacted]

Office: VERMONT SERVICE CENTER

Date:

NOV 14 2003

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)

ON BEHALF OF PETITIONER:

[Redacted]

Identifying data deleted to  
prevent identity unwarranted

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 of the Vermont Service Center and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The petitioner is a religious organization. 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 employ him as a religious translator. The director determined that the petitioner had not established that the beneficiary had been engaged continuously in a qualifying religious vocation or occupation for two years immediately preceding the filing date of the petition. The director further determined that the petitioner had not established that the proffered position qualifies as a religious vocation or occupation.

On appeal, counsel submits a brief and additional evidence.

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 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).

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

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.

The first issue to be addressed in this proceeding is whether the petitioner has established that the beneficiary had been engaged continuously in a qualifying religious vocation or occupation for two full years immediately preceding the filing date of the petition.

The petition was filed on July 27, 2001. Therefore, the petitioner must establish that the beneficiary was working continuously as a religious worker from July 27, 1999, until July 27, 2001. The petitioner indicated on Form I-360, Petition for Amerasian, Widow, or Special Immigrant, that the beneficiary last entered the United States on November 27, 1998, as a nonimmigrant R-1 religious worker with stay authorized to October 22, 2001. He was subsequently granted an extension of his authorized stay until October 22, 2003.

The director determined that the petitioner had not submitted any evidence to show that the beneficiary was paid a salary during the two years immediately preceding the filing date of the petition.

On appeal, counsel states that no evidence was submitted to show that the beneficiary was paid a salary during the requisite period because the beneficiary is a member of a group entitled the "Worldwide Order of Special Full-time Servants," ("the Order") and, as such, has taken vows of poverty and obedience. Counsel states that the beneficiary, as a member of the Order, is provided

with housing, food, medical and dental insurance and other necessary services, as well as reimbursement for personal expenses. Counsel submits the following evidence:

1. a signed copy of the beneficiary's vow of poverty and obedience;
2. a letter dated April 9, 2002, from Max H. Larson, President of the Watchtower Bible and Tract Society ("Watchtower Society"), explaining that the beneficiary is a member of the Order and, as such, is fully supported by the church;
3. a brochure entitled *Welcome to the World Headquarters of Jehovah's Witnesses*;
4. copies of articles from a publication entitled *The Watchtower* explaining the operation of the Order at Watchtower Society facilities in New York and around the world;
5. an affidavit from Philip Brumley, Executive Administrator for the Watchtower Society, affirming Mr. Larson's statements in his letter of April 9, 2002;
6. an affidavit from Izak Marais, Director of the Translation Services Department of the Watchtower Society, explaining the operations of the translation department and the beneficiary's role in his department;
7. an affidavit from Gerald F. Simmons, Secretary and Treasurer of the Watchtower Society, attesting that the Watchtower Society has sufficient funds to provide full financial support to the beneficiary and all other members of the Worldwide Order; and
8. a videotape entitled *Jehovah's Witnesses: The Organization Behind the Name* that explains, among other things, the ongoing religious translation projects carried on by members of the Worldwide Order at the Watchtower Society's New York headquarters.

Upon review of the evidence of record, it is concluded that the petitioner has submitted sufficient evidence to show that the beneficiary was engaged continuously in a qualifying religious vocation or occupation for two years immediately preceding the filing date of the petition. Therefore, the petitioner has overcome this ground for the denial of the petition.

The second issue raised by the director is whether the petitioner has shown that the proffered position qualifies as a religious

vocation or occupation.

The director stated that the petitioner had not shown that the position offered to the beneficiary requires more than the attention of a dedicated and caring member of the congregation or a person familiar with the language being translated.

On appeal, counsel asserts that the position of religious translator is a traditional religious function within the denomination. Counsel cites Mr. Marais' affidavit and Mr. Larson's letter of April 9, 2002, in support of his statement.

Pursuant to 8 C.F.R. § 204.5(m)(2), the term "religious occupation" is defined as follows:

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.

Although the petitioner states that the proffered position is a religious vocation because the beneficiary has taken vows of poverty and obedience, it is concluded that the proffered position of religious translator conforms to the regulatory definition of a "religious occupation" and is, in fact, a traditional religious function within the religious organization. Therefore, the petitioner has also overcome this ground for denial of the petition, and the petition may be approved.

In reviewing an immigrant visa petition, the AAO 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. Here, the petitioner has sustained that burden.

**ORDER:** The denial of the petition is withdrawn. The appeal is sustained and the petition is approved.