



U.S. Citizenship
and Immigration
Services

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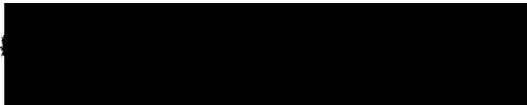


File: [Redacted]

Office: TEXAS SERVICE CENTER

Date: AUG 19 2004

IN RE: Petitioner:
Beneficiary:



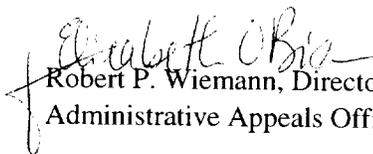
Petition: Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

IN BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.


Robert P. Wiemann, Director
Administrative Appeals Office

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be summarily dismissed.

The petitioner is a church. It seeks to classify the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(4). The director denied the petition in a decision dated June 19, 2003. The director stated the following reasons as grounds for the denial:

On March 17, 2003 petitioner was asked to provide a detailed description of the beneficiary's prior work experience including duties, hours and compensation [to demonstrate that the beneficiary has been continuously carrying on the vocation in a full-time position for the two year period preceding the filing of the petition].

* * *

The evidence submitted to provide proof for the beneficiary's prior experience does not indicate hours of service or proof of any type of monies or compensations ever being received by the beneficiary.

* * *

The beneficiary is being offered a position as a minister. Petitioner states that the beneficiary is being offered a part-time position now but in the future, he will work full-time. The job offer makes no mention of compensation and does not state that the beneficiary will not be dependent on the solicitation of funds or outside employment [as required by 8 C.F.R. § 204.5(m)(4)].

Petitioner submitted a copy of the organization's Unaudited Financial statements. Unaudited financial statements do not satisfy the statutory [sic] requirements [of 8 C.F.R. § 204.5(g)(2)].

The petitioner, through counsel, filed the instant appeal on July 21, 2003. On the Form I-290B Notice of Appeal, counsel indicated that he needed 60 days in which to submit a brief and/or evidence to the AAO. Counsel stated the following as the reason for the appeal:

The Texas Center Director erred when he denied the I-360 petition for classification of religious worker for beneficiary . . . pursuant to INA section 203(b)(4). The petitioner met the requirements pursuant to §101(a)(27)(C) of the Act . . . for eligibility of special immigrant as a religious worker. The petitioner showed that the beneficiary has been a member of a religious denomination [affiliated] with a religious organization in the United States and that he has entered to the U.S. solely to advance his religious vocation. To Wit: Beneficiary was sponsored by his organization to study in the U.S. where he

obtained a degree in ministry. See C.F.R. 205.4. The church has demonstrated ability to support the beneficiary.

To date, counsel has not submitted a brief or any evidence in support of the appeal.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part, “[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.”

Counsel’s statement on appeal does not address the director’s findings related to the beneficiary’s full time work experience in the 2-years preceding the filing of the petition and does not address the issues noted by the director related to the job offer. Counsel makes no reference to the issue of compensation or to the issue of whether the beneficiary will be dependent on the solicitation of funds or outside employment.

Moreover, while counsel asserts in his statement that the petitioner has demonstrated the ability to pay the beneficiary, no evidence other than the unaudited financial statements noted by the director has been submitted. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner’s burden of proof. The assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter Of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

The basis for counsel’s appeal is unclear and does not address the director’s findings. Where there is a question of law, counsel should provide supporting authority; where there is a dispute as to facts, counsel should discuss the particular details contested. Counsel’s description of the grounds for appeal as set out on the Form I-290B do not satisfy the specificity requirement of 8 C.F.R. §103.3(a)(1)(v).

For the reasons stated above the petitioner has failed to overcome the reasons for denial as stated by the director. Accordingly, the regulations mandate the summary dismissal of the appeal.

ORDER: The appeal is dismissed.