



U.S. Citizenship
and Immigration
Services

C/

[Redacted]

File: [Redacted] Office: VERMONT SERVICE CENTER

Date: SEP 19 2004

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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:

SELF-REPRESENTED

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.

Mark Johnson

for Robert P. Wiemann, Director
Administrative Appeals Office

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

The petition was filed on April 27, 2002. In a decision dated April 23, 2002, the director denied the petition finding that the petitioner had failed to establish the beneficiary would be employed in a traditional religious occupation and that the beneficiary's duties require specific training or full-time commitment. The director further found the petitioner failed to establish its ability to pay the beneficiary as the record contained only unaudited financial statements.

Upon review of the record, we concur with the director's determination that the petitioner failed to establish the beneficiary would be employed in a traditional religious occupation and that his duties require specific training or full-time commitment. Further, we concur with the director's finding that the petitioner failed to establish its ability to pay the beneficiary the proffered salary.

On appeal, the petitioner submitted translations of photocopied documents, purported to be the beneficiary's religious "credentials from Spain." No evidence was submitted to demonstrate the petitioner's ability to pay or to establish that the beneficiary's position is considered a traditional religious occupation.

As we concur with the director's findings and the petitioner has failed to submit any evidence to overcome the grounds for denial as they relate to the petitioner's ability to pay and the beneficiary's position as a traditional religious function, the petitioner has failed to establish eligibility for approval.

We further note that while the petitioner refers all correspondence to the Jackson Heights Immigration Center (JHIC), we do not recognize any such representation on the petitioner's behalf. Despite the Vermont Service Center's recognition of the JHIC, there is no Form G-28 contained in the record from any attorney or representative from JHIC. As no such form G-28 has been submitted on appeal we will not continue to perpetuate this error on appeal.

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. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.