

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

01

FILE:

SRC 01 170 53754

Date: JUN 14 2005

To Whom It May Concern:

On April 27, 2001, your organization filed a petition seeking to classify [REDACTED] (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), as described at section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C). A church representative signed Form I-360, thereby certifying under penalty of perjury that "this petition and the evidence submitted with it is true and correct."

The Director, Texas Service Center, approved your petition on April 30, 2002, but subsequently revoked the approval on December 18, 2003. You have appealed that decision, and your appeal is now before the Administrative Appeals Office (AAO). During the adjudication of your appeal, information has come to light that raises serious questions of credibility. Based in part upon this information, the AAO intends to dismiss your appeal. Pursuant to Citizenship and Immigration Services' (CIS) regulations at 8 C.F.R. § 103.2(b)(16)(i), we hereby notify you of this derogatory information and provide you with an opportunity to respond before we render our final decision.

[REDACTED] identified as your church administrator, stated in a letter dated April 24, 2001 that the beneficiary "joined our Washington DC parish, Jesus House . . . as soon as he came into this country in 1998." [REDACTED] also indicated that the beneficiary has served at churches in Nigeria, England and the Netherlands. She mentioned no other churches in the United States.

Following the 2002 approval of your petition on the beneficiary's behalf, the beneficiary applied for adjustment to permanent resident status. As part of this application, the beneficiary submitted Form G-325A, Biographic Information. He signed the form and dated it May 30, 2002. The form advises that "severe penalties are provided by law for knowingly and willfully falsifying or concealing a material fact." The form, as submitted by the beneficiary, contains the following information:

[REDACTED]

[REDACTED]

The above claims are consistent with [REDACTED] assertion that the beneficiary had worked at Jesus House in [REDACTED]

Review of the beneficiary's alien file reveals that another church filed a previous petition on the beneficiary's behalf. The Assembly of God Spring of Life Church in Providence, Rhode Island, filed Form I-360 on the beneficiary's behalf on December 23, 1998. An official of that church stated, in a letter dated December 15, 1998, [REDACTED] "as since his recent arrival in our midst been involved with our local church on a full-time but volunteer basis." That church submitted a copy of a "duty schedule for [REDACTED] which he has already started following." Clearly, this previous petition indicates that the beneficiary had been working full-time in Providence, Rhode Island, for roughly four months after his August 1998 arrival in the United States.

Subsequently, the church in Providence submitted a letter signed by the beneficiary, dated April 30, 1999. This letter is on the printed letterhead stationery of Spring of Life Assembly of God Church in Providence. Thus, the beneficiary himself personally signed a document (referring to himself as "Pastor") that links him with the church in Rhode Island during a time when he later claimed to have been living in Maryland.

If the beneficiary was at a church in Providence, Rhode Island, from August 1998 to April 1999, then he cannot have been at your sister [REDACTED] the very same time, as you and the beneficiary have both claimed. Because of this discrepancy, the overall credibility of your claims is in serious doubt.

Accordingly, we advise you that we will reject your claims, and dismiss your appeal, unless you are able to provide convincing, contemporaneous documentary evidence to resolve the major discrepancies discussed above. We also call for a thorough and persuasive explanation as to why the beneficiary has provided conflicting information regarding his whereabouts and activities during 1998-1999, first signing a letter as the pastor of Spring of Life Assembly of God Church in Providence, and later signing a Form G-325A that contained no mention of that church at all, and that instead indicated that he had lived in Maryland and worked for Jesus House throughout all of 1999. (While an explanation *alone* will not suffice, in this instance an explanation is clearly in order *in addition* to the required documentary evidence.)

If you do not provide compelling documentary evidence to resolve the very serious discrepancies we have described, then the AAO will find that your organization knowingly submitted documents containing false statements in an effort to mislead CIS and the AAO on an element material to the beneficiary's eligibility for a benefit sought under the immigration laws of the United States. See 18 U.S.C. §§ 1001, 1546.

If you cannot overcome the grounds for a finding of fraud, we will conclude that the evidence you previously submitted is not credible and will not be given any weight in this proceeding. If CIS fails to believe that a fact stated in the petition is true, CIS may reject that fact. Section 204(b) of the Act, 8 U.S.C. § 1154(b); see also *Anetekhai v. I.N.S.*, 876 F.2d 1218, 1220 (5th Cir.1989); *Lu-Ann Bakery Shop, Inc. v. Nelson*, 705 F. Supp. 7, 10 (D.D.C.1988); *Systronics Corp. v. INS*, 153 F. Supp. 2d 7, 15 (D.D.C. 2001). Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988).

You have the right to withdraw your appeal if you choose to do so, but we note that there is nothing in the statute, regulations, or case law to indicate that a withdrawal prevents a finding of fraud or eliminates the legal consequences thereof. A withdrawal shall be construed as a stipulation that you do not contest the grounds for such a finding.

In the event that you are able to prove beyond dispute that the beneficiary was in Maryland and the District of Columbia in late 1998 and 1999, this would resolve the discrepancies in your favor. At the same time, however, the beneficiary's own signature on the 1999 letter from the church in Providence could still have serious consequences for the beneficiary's eligibility for immigration benefits.

8 C.F.R. § 103.2(b)(16)(i) does not specify the amount of time afforded to an applicant or petitioner to respond to derogatory evidence. We consider thirty (30) days to be ample time for this purpose. Therefore, you are hereby afforded 30 days from the date of this letter in which to respond to this notice. If you choose to respond, please submit your response to the address shown on the first page of this letter. Also, please reference the beneficiary's A-number, [REDACTED] in your response.



2 Robert P. Wiemann, Director
Administrative Appeals Office