

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

C1



FILE: LIN 03 256 51498 Office: NEBRASKA SERVICE CENTER Date: MAY 18 2008

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)

ON 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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office on appeal. The appeal will be sustained and the petition will be approved.

The petitioner is a state conference of a major Protestant denomination. It seeks to classify 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 perform services as a pastor. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience as a pastor immediately preceding the filing date of the petition.

On appeal, the petitioner submits copies of various documents, some but not all of them previously submitted.

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; 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).

The sole ground for denial concerns the beneficiary's past experience. The regulation at 8 C.F.R. § 204.5(m)(1) indicates that the "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." 8 C.F.R. § 204.5(m)(3)(ii)(A) requires the petitioner to demonstrate that, immediately prior to the filing of the petition, the alien has the required two years of experience in the religious vocation, professional religious work, or other religious work. The petition was filed on September 11, 2003. Therefore, the petitioner must establish that the beneficiary was continuously performing the duties of a pastor throughout the two years immediately prior to that date.

Documentation in the record indicates that the beneficiary was ordained as a minister on March 13, 1991. This indicates that he has been qualified to work as a minister since that date, but it does not prove that he has actually carried on the vocation of a minister since 1991. Other documents in the record identify the beneficiary as the senior pastor of Hanury Korean Methodist Church in Los Angeles, California, but these

documents are dated 1998 and, therefore, cannot account for the beneficiary's activities during the 2001-2003 qualifying period.

██████████ states that the petitioner "has appointed [the beneficiary] as the pastor of the Ames United Methodist Korean Church in Ames, Iowa," and that the beneficiary has been a "pastor in Ames for over two years." ██████████ did not indicate specifically when the beneficiary began preaching in Ames, or whether the beneficiary has always been at the same church in Ames.

The director instructed the petitioner to "[s]ubmit evidence that for at least the two-year period immediately preceding the filing of this petition (09-11-01) the alien has been performing the vocation . . . continuously. The evidence must outline the specific duties, the date(s) these duties were performed, and the time spent performing these duties." In response, Ardith Miller, the petitioner's immigration advocate, states: "The petition was filed on September 11, 2003 not 9-11-2001." The director's reference to the 2001 date simply specifies when the two-year qualifying period began. Ms. Miller states that the beneficiary "has been serving the Ames Church since February of 2002 thus fulfilling the two year qualification."

The director denied the petition, stating that the period between February 2002 and September 2003 is less than two years, and therefore employment during that period cannot suffice to meet the continuous employment requirement. On appeal, Ms. Miller asserts that the beneficiary "was appointed to serve the Ames United Methodist Korean Church in Ames, Iowa in 2001" and had been working at that church "for two (2) years and two (2) months" as of the September 2003 filing date. Ms. Miller does not explain her earlier specific reference to "February of 2002."

Because Ms. Miller has provided conflicting information, her unsupported assertions carry diminished weight. Other evidence in the record, however, support the version of events asserted on appeal. Form W-2 Wage and Tax Statements, submitted on appeal, indicate that the petitioner paid the beneficiary \$16,200.00 plus a \$4,725.00 "Parson's Allowance" in 2001; \$17,951.64 plus a \$7,200.00 "Parsonage Allowance" in 2002; and \$21,571.32 plus a \$6,200.00 "PARSONAGE ALLOW" in 2003. This evidence indicates that the 2001 date is more reliable than the 2002 date, and they also corroborate ██████████ assertion (before Ardith Miller ever mentioned February 2002) that the beneficiary had been a "pastor in Ames for over two years."

The Forms W-2 appear to be credible and persuasive evidence that the beneficiary worked for the Ames church for part of 2001. While it is not clear why Ms. Miller referred to February 2002, this apparent error is not so serious as to disqualify the beneficiary from receiving a benefit for which the record indicates he is eligible.

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 met that burden and overcome the only stated basis for denial. Accordingly, the appeal will be sustained.

ORDER: The appeal is sustained. The petition is approved.