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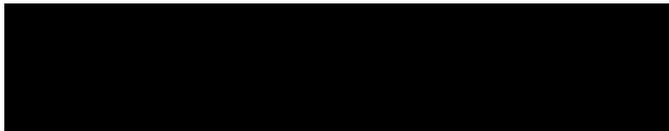
Office: CALIFORNIA SERVICE CENTER

Date:

NOV 21 2005

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)

ON 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.

Mari Johnson

Robert P. Wiemann, Director
Administrative Appeals Office

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

The petitioner is the mother church of the Church of Scientology. 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 member of the Sea Organization, a religious order of the Church of Scientology. The director determined that the petitioner had not established that the beneficiary's position qualifies as either a religious occupation or a religious vocation. The director also questioned the authenticity of a key document reproduced in the record.

The regulation at 8 C.F.R. § 204.5(m)(2) offers the following pertinent definitions:

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.

Religious vocation means a calling to religious life evidenced by the demonstration of commitment practiced in the religious denomination, such as the taking of vows. Examples of individuals with a religious vocation include, but are not limited to, nuns, monks, and religious brothers and sisters.

The regulation reflects that positions whose duties are primarily administrative or secular in nature do not qualify as religious occupations. Citizenship and Immigration Services therefore interprets the term "traditional religious function" to require a demonstration that the duties of the position are directly related to the religious creed of the denomination, that the position is defined and recognized by the governing body of the denomination, and that the position is traditionally a permanent, full-time, salaried occupation within the denomination.

In a letter dated September 3, 2003, Liana Weiland (title unspecified) of the petitioning organization describes the beneficiary's work:

[The beneficiary] became a Sea Organization Member in 1997 and worked at the Church of Scientology in Copenhagen, Denmark. In September 2000 she came to the United States and took a position where she was responsible for assisting in dissemination of the Scientology religion worldwide. . . .

[The petitioner] has staff qualifications requiring Sea Organization membership. . . .

Sea Organization members devote their lives to their religion; they live in community with other Sea Organization members and wear specific uniforms. Their meals, housing, clothes,

medical and dental care are provided by the Church. Each member additionally receives a small weekly allowance, currently \$50.00 per week and occasional small bonuses.

The director concluded that the petitioner did not adequately describe the beneficiary's duties, and that the petitioner has failed "to show that the Sea Organization has a governing structure, a formal legal organizing instrument, set theological education standards, or operates with its own budget and assets." The director did not explain the source of these requirements. The director acknowledged the members' "life-long commitment to their faith," but determined that there is insufficient evidence to conclude that the Sea Organization is a religious order, whose members qualify as workers in a religious vocation.

The Church of Scientology has provided various documents and affidavits discussing the Sea Organization. Upon careful consideration of these materials, the AAO is satisfied that the Sea Organization qualifies as a religious order, and that its members practice a religious vocation. Because a discussion of specific duties is germane to religious occupations, but not religious vocations, we need not analyze the beneficiary's exact duties in any detail.

Having concluded that the Sea Organization is a religious order, we must now determine whether or not the beneficiary has been a full member of that order since at least two years prior to the petition's September 5, 2003 filing date, as required by section 101(a)(27)(C)(iii) of the Act, 8 U.S.C. § 1101(a)(27)(C)(iii), and 8 C.F.R. §§ 204.5(m)(1) and (3)(ii)(A).

The record contains copies of several certificates, including a "Sea Organization Contract of Employment," which reads, in part, "I contract myself to the Sea Organization for the next billion years," signed by the beneficiary and two witnesses. The date appears, at first glance, to read "Nov 1986." The beneficiary was born in 1975. The document is marked "Copy made from Church records."

On September 24, 2003, the director stated: "The Contract of Employment indicates the beneficiary became a member of the Sea Organization in November 1986, at the age of 11." The director requested evidence about the beneficiary's education and duties, and stated that the 1986 Contract is not consistent with Ms. Weiland's assertion that the beneficiary joined the Sea Org in 1997. The director instructed the petitioner to "[s]ubmit the original Contract of Employment signed by the beneficiary in 1986. Do not submit a photocopy."

In response to the director's notice, Caroline Heinrich, legal officer with the petitioning church, states: "There appears to be a misunderstanding. [The beneficiary] signed her Sea Organization contract in 1996, not 1986, then wrapped up her affairs to enter religious life in January 1997."

Ms. Heinrich states: "The original Contract of Employment could not be obtained in time for filing prior to the sunset deadline.¹ For this reason, a duplicate original was provided at the time of filing of the I-360 petition. However, since that time, the original Contract of Employment was obtained and is enclosed." The original Contract submitted with Ms. Heinrich's letter is dated November 16, 1996. We note that, pursuant to

¹ The statute authorizing the classification sought was, at the time of filing, set to expire on September 30, 2003. It has since been extended to September 30, 2008.

8 C.F.R. § 103(b)(5), the director must return this original document to the petitioner now that adjudication of the petition has been concluded (although the director may, of course, retain a copy for the record).

In denying the petition, the director refers to “the documented fact that the beneficiary signed a contract with the Sea Organization while eleven years old.” The director does not acknowledge Ms. Heinrich’s assertion that the beneficiary signed the Contract in 1996 (at age 21) rather than in 1986. The director also states that the Contract “could not have been issued in 1986” because it shows a 1995 copyright date. What the director regards as a serious discrepancy, however, actually corroborates the petitioner’s explanation that the Contract actually dates from 1996, not 1986.

Upon closer inspection, the date on the photocopied Contract does not read “1986.” Rather, it appears that the beneficiary meant to write “1996,” but accidentally wrote “196.” The beneficiary corrected this mistake by writing a “9” over the “6” and adding a new “6” after it. The “6” and “9” are each distinctly visible upon closer inspection, but at first glance the overlapping numerals resemble a numeral “8,” thus suggesting that the contract dates from 1986.

With regard to the petitioner’s assertion that the original Contract could not be located in time for the original filing, the director stated “it is unclear how the petitioner was able to make a duplicate copy without the original in its possession.” The copy in the record is visibly different from the original Contract (for instance, as the director observes, the signatures are different), and therefore it was obviously not copied directly from the original. Rather, it is a “copy” in the sense that it was reconstructed from church records. Counsel asserts that the petitioner submitted no church records to corroborate the reconstructed Contract, but the petitioner has submitted the original Contract itself. When the documents themselves are examined in conjunction with the petitioner’s claims about the origin of those documents, the petitioner’s explanation is plausible and fully consistent with the evidence.

Beyond the purported discrepancies discussed above, the director observed that the Sea Org “Contract of Employment” is not a decisive instrument of membership in the Sea Org, and that “[t]he petitioner submitted no documentary evidence to show that the beneficiary is in fact a full member” of the Sea Organization.

On appeal, the petitioner submits materials concerning the various steps required to join the Sea Organization, such as completion of the Estates Project Force (EPF) and review by a Fitness Board. From materials made available to us, we have concluded that an individual who has successfully passed review by the Fitness Board can be considered a member of the Sea Organization (as opposed to a recruit, who is not a full member). Therefore, the petitioner can establish that the beneficiary possesses the relevant experience by submitting church records showing that the beneficiary passed the Fitness Board at least two years before September 5, 2003 and continuously engaged in the vocation during that time.

In a supplement to the appeal, the petitioner submits copies of church documents, including a document indicating that the beneficiary passed the Fitness Board on February 26, 1997, the same day she completed “Product Zero.” This indicates that the petitioner was a full member of the Sea Organization for more than six years prior to the petition’s September 2003 filing date. One document bears the legend “Issued at: Los Angeles, California on 25 September 2005.” This demonstrates that the petitioner does, on occasion, reconstruct such

certificates based on information in church records. The director cites no contradictory evidence that would cast doubt on the information shown on the documents submitted on appeal, or show that the beneficiary engaged in disqualifying outside employment during the relevant two-year period.

Pursuant to the above discussion, the petitioner has overcome the stated grounds for denial. Upon review of the record, we see no readily apparent obstacle to the approval of the petition. 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 sustained that burden. Accordingly, the decision of the director denying the petition will be withdrawn and the petition will be approved.

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