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U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

PUBLIC COPY

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[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: FEB 20 2008

WAC 07 240 50184

IN RE: Petitioner: [redacted]

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:

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.

Marii Johnson

Robert P. Wiemann, Chief
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 on appeal. The appeal will be dismissed.

The petitioner is a district council of the Assemblies of God 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 minister at Centro Cristiano Hispano Asambleas de Dios, Branson, Missouri. The director determined that the petitioner had not established that the beneficiary had the requisite two years of membership in the petitioner's denomination or continuous work experience as a minister immediately preceding the filing date of the petition.

On appeal, the petitioner submits letters and documents, including copies of paychecks.

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 . . . ; 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 regulation at 8 C.F.R. § 204.5(m)(1) states that a special immigrant religious worker "petition may be filed by or for an alien, who (either abroad or in the United States) for at least the two years immediately preceding the filing of the petition has been a member of a religious denomination which has a bona fide nonprofit religious organization in the United States." The same regulation requires 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, and membership in the same religious denomination in which the alien seeks to perform such work. The petition was filed on January 16, 2007. Therefore, the petitioner must establish that the beneficiary belonged to the petitioner's denomination (Assemblies of God) and was continuously performing the duties of a minister throughout the two years immediately prior to that date.

Documentation in the record shows that the beneficiary entered the United States on April 13, 2004 as a B-2 nonimmigrant visitor, and was later issued an R-1 nonimmigrant religious worker visa, valid from February 24, 2005 to June 30, 2007, permitting him to work at Maranatha Assembly of God, Lansing, Michigan. On

the Form I-360 petition, asked whether the beneficiary had ever worked in the United States without authorization, the petitioner answered "no." B-2 nonimmigrants are not authorized to work in the United States.

Secretary-Treasurer of the Missouri Section, Midwest Latin American District of the Assemblies of God, stated in a November 2, 2005 letter:

> [The beneficiary] is the duly appointed pastor of Centro Cristiano Hispano Asamblea de Dios in Branson, Missouri. On August 21, 2005, , as sectional presbyter, officiated in the installation ceremony conducted during the Sunday service. He was assisted by . . [who] had been asked by our district officials to serve as interim pastor from Dec., 2004 until August, 2005.

The General Council of the Assemblies of God, Springfield, Missouri, issued a Certificate of Ministry to the beneficiary on June 23, 2006.

The petitioner submitted copies of Spanish-language letters from church officials in Venezuela, along with uncertified translations. One translated letter, dated September 24, 2003, reads, in part:

> GENERAL FREDERATION COMMITTEE
> ASSEMBLY OF GOD OF VENEZUELA
> GENERAL PRESBYTERY
> * * *
> (CERTIFICATION/ACKNOWLEGEMENT)
>
> I, . . in my capacity as General Secretary of the Assembly of God in Venezuela, by this present letter hereby certify that [the beneficiary] who is [was] Minister of our organization during eight years, where he manifested an unblemished conduct and why we highly recommend this minister.

(*Sic.*) A separate letter, also attributed to (although the translation spells the name ') and dated April 12, 2004, indicates that the beneficiary and another individual "began their ministerial career" "in 1995."

Because the petitioner failed to submit *certified* translations of the documents, the AAO cannot determine whether the evidence supports the petitioner's claims. *See* 8 C.F.R. § 103.2(b)(3). Accordingly, the evidence is not probative and will not be accorded any weight in this proceeding.

On March 22, 2007, the director issued a request for evidence, instructing the petitioner to establish a denominational connection between the petitioning entity and Maranatha Assembly of God Church. The director added that the beneficiary's B-2 nonimmigrant status would not have permitted paid ministerial employment in the United States. The director stated: "The petitioner has not established that the beneficiary has the required two years of employment as a minister with the same religious denomination." The director

requested a detailed history of the beneficiary's employment during the two-year qualifying period, including evidence of compensation.

In response, the petitioner submitted a copy of a notarized letter from , General Secretary of the General Council of the Assemblies of God, stating that "La Federacion Concilio General de las Asambleas de Dios . . . VENEZUELA, is a recognized sister organization of The General Council of the Assemblies of God, Springfield, Missouri." did not discuss the denominational status of Maranatha Assembly of God Church. A photocopy of an untranslated identification card issued by the Federacion Concilio General, Asambleas de Dios de Venezuela, shows the beneficiary's name and address followed by the phrase "."

The petitioner submitted copies of what appear to be academic transcripts and other documents relating to the beneficiary's theological training in Venezuela. The petitioner did not submit translations of these documents, certified or otherwise. Another letter from , this one dated April 9, 2007 and addressed to the beneficiary, reads in part: "We have received a copy of your college transcript showing that you have successfully completed all of the required courses for Certified Minister. We have removed the provisional status from your file." This letter affirms denominational acceptance of the beneficiary's qualifications as an Assemblies of God minister; it also demonstrates the existence of a "file" on the beneficiary at the denomination's United States headquarters in Springfield, Missouri. The record does not reveal the nature or extent of the contents of that file.

Regarding the beneficiary's prior employment in the United States, Superintendent of the petitioning district council, stated "Maranatha Assembly of God is also affiliated with the [petitioning] District Council of the Assemblies of God." The district's Articles of Incorporation confirm that the district encompasses Michigan, but the documentation does not identify the individual churches so covered. stated that the beneficiary "was helping at Maranatha Assembly of God in Lansing Michigan . . . from April 2004 to August 2005," but he did not specifically indicate that the beneficiary performed the duties of a minister during that time, or that the beneficiary received any compensation for that work. The assertion that the beneficiary "was helping" at the church is too vague to support the inference of compensated ministerial work.

Several officials of the church in Branson (including the beneficiary himself) signed a joint letter that reads, in part:

> From 1995 to 2003, [the beneficiary] worked as a minister with the [A]ssembly of God of Venezuela. . . .
>
> In 2002 [the beneficiary] completed his theology studies. . . .
>
> Since August 21 2005 [the beneficiary] has been conducting religious worship services in accordance with the denomination practice.

The letter does not indicate what the beneficiary was doing between 2003, when he stopped working in Venezuela, and August 2005, when he began working in Branson.

The petitioner submitted copies of processed checks, showing his compensation in Branson, but no comparable evidence regarding his earlier activities in Lansing.

The petitioner submitted a copy of the Bylaws of the General Council of the Assemblies of God, revised August 5, 2005. Article VII, section 1 of those Bylaws states: "All ordained licensed and certified ministers *holding current ministerial credentials* are authorized to perform the ordinances and ceremonies (sacerdotal functions) of the church" (emphasis added). This demonstrates that ordination does not *permanently* entitle an Assemblies of God minister to perform such duties; the minister's credentials must be kept current.

The beneficiary may have been a fully qualified minister in Venezuela before 2005, but this does not prove that the denomination in the United States recognized these qualifications and allowed him to work as a minister. The issuance of the Certificate of Ministry in June 2006, followed by the April 2007 of the beneficiary's "provisional status," supports this reading of the evidence.

Article VII, section 1 of the denomination's Bylaws also states: "Christ's gifts to the Church include apostles, prophets, evangelists, pastors, and teachers (Ephesians 4:11), exhorters, administrators, leaders, and helpers (Romans 12:7,8)." This reference to "helpers" appears to be significant in light of [redacted] assertion that the beneficiary "was helping at Maranatha Assembly of God in Lansing Michigan."

The petitioner's response to the director's notice does not appear to contain any documentation from the church in Lansing.

The director denied the petition on July 11, 2007, stating that the petitioner failed to submit documentary evidence of the beneficiary's claimed employment in Lansing prior to August 2005, or of the denominational connection between the churches in Lansing and Branson. The director also found that the beneficiary obtained valid ministerial credentials and work authorization during the two-year qualifying period, and therefore appeared to lack those credentials and authorization during the early part of that period.

The petitioner's appeal includes a partial copy of the Assemblies of God Ministers' Directory, listing the affiliated council in Venezuela as well as the churches in Lansing and Branson. This evidence establishes the necessary denominational affiliation, and the AAO hereby withdraws the director's finding to the contrary.

There remains the issue of the beneficiary's past work. An unsigned statement accompanying the appeal reads, in part: "[the beneficiary] has worked continuously in the capacity of a pastor since April 2004 until [the] present time." The petitioner does not explain where the beneficiary worked between April 2004 and February 2005.

[redacted] repeats the assertion that the beneficiary "was helping at Maranatha Assembly of God in Lansing Michigan. He served at this church from February 2005, when he receive[d] his R-1 status to August 2005. [redacted] a of Maranatha Assemblies of God Church in Lansing states:

> During the months of February 2005 – August 15th 2005, as a Christian minister with Maranatha A/G Church, [the beneficiary] conducted religious worship in accordance with the denomination's practices. . . .
>
> [The beneficiary] received donations at an average of $250 a week for his speaking engagements and other events [with] which he was involved. Also, he[] was given an automobile for his transportation for him and his family and we had made arrangements giving him food on a weekly basis through our Women's Ministry. We also provided the [beneficiary's] family clothes, linens, and other household items when they were needed. . . . We as a church provided for [the beneficiary] and his family for his financial and physical needs.

The petitioner submits copies of dozens of checks issued to the beneficiary by the church in Branson, but there are no comparable checks from the church in Lansing. Apart from the unexplained lack of documentation, church officials in Branson and Lansing agree that the beneficiary began working in Lansing in February 2005. This assertion is facially disqualifying, because the two-year qualifying period began in mid-January 2005. The petitioner has not identified any church where the beneficiary was actively serving as a minister at the time the qualifying period began. Furthermore, the beneficiary lacked employment authorization prior to February 24, 2005, and the petitioner has already claimed that the beneficiary did not work in the United States without authorization. The church's own statements, therefore, preclude a finding of eligibility in this proceeding.

states that "[h]aving come from Venezuela [the beneficiary] had to transfer his credential to get a credential with the Assemblies of God here in the United States. The process for credentialing is a lengthy process." The record supports these assertions, but they also support a finding that the beneficiary lacked current, valid credentials for part of the two-year qualifying period.

The petitioner has claimed, in an unsigned, unattributed statement, that the beneficiary worked continuously as a minister since April 2004. Every piece of documentary evidence that the petitioner has submitted, however, points away from that conclusion. The petitioner has provided no information about the beneficiary's claimed activities in 2004 or early 2005, and the strong evidence of past employment does not predate the beneficiary's work at the Branson church beginning in August 2005.

For the reasons stated above, the AAO affirms the director's finding that the petitioner has not established that the beneficiary worked continuously as a minister during the two years immediately preceding the filing date 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 not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.