

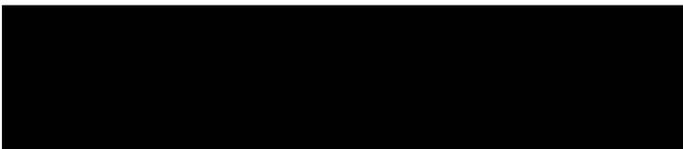
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U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
WAC 07 136 52201

Office: CALIFORNIA SERVICE CENTER

Date: SEP 04 2008

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:

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, 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 (AAO) on appeal. The AAO will sustain the appeal and approve the petition.

The petitioner is a district headquarters of a United Kingdom-based Pentecostal Protestant Christian 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, and as the petitioner's director of training and development. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience as a director of training and development immediately preceding the filing date of the petition.

On appeal, the petitioner submits a written statement and copies of various exhibits relating to the beneficiary's ministerial credentials.

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 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 April 2, 2007. Therefore, the petitioner must establish that the beneficiary was



continuously performing the duties of the proffered position throughout the two years immediately prior to that date.

In an April 2, 2007 letter accompanying the initial filing of the petition, [REDACTED], District Apostle, stated:

[The beneficiary] joined our congregation in September 2003 as a full member and served the church in various capacities as a volunteer religious minister before becoming a full time religious minister [on] April 1, 2005. . . .

We attest that [the beneficiary] is a trained minister, licensed and ordained to conduct religious worship, water baptism, weddings, mission outreaches, holy communion, child dedication, funerals, confirmations, counseling, preaching, teaching and practice all other biblical and religious activities pertaining to the office in accordance with respective ordinances of residence.

We attest that [the beneficiary's] continuous responsibilities in the church are as listed:

1. To serve as provost of our ministerial Bible school for training our ministers.
2. To conduct regular leadership training for the church officers and non ministerial staff.
3. To serve as coordinator and chaplain of our prison and hospital ministry.
4. To prepare Sunday school syllabus, educational and study materials for the use of our members in our local churches in the district. . . .
5. To develop and coordinate developmental projects and programs for children, youth and adult[s] in our local churches.
6. To facilitate and coordinate new programs and projects for the expansion of the church and community benefits.

In a separate letter, [REDACTED] stated that the beneficiary's "position in the church is director of training and development." The letter includes the following list of the beneficiary's "Official Duties":

<u>OFFICIAL DUTIES</u>	<u>Weekly Hours</u>
1. To prepare, edit and record lectures for the church bible school	8
2. To coordinate the church administrative and liturgical work	8
3. To conduct Pastoral counseling session[s] for depressed and devastated members	8
4. To conduct workers['] training and Sunday school preparatory class	4
5. To visit and administer Holy Communion to the sick and shut inns [<i>sic</i>]	4
6. To visit and serve as resource minister to our other churches in the district	8

The petitioner submitted copies of numerous church publications establishing the beneficiary's role in the organization. One church publication containing photographs of a November 14, 2004 "Annual Thanksgiving Service" referred to the beneficiary as "the district director of missions and development." The petitioner's "2005 Almanac," which apparently dates from late 2004 or early 2005, stated the beneficiary's

job title as “Director of Missions & Development.” The petitioner’s “2007-2008 District Almanac” refers to the beneficiary as “Director of District Development.” An undated “Sunday School Study Manual” with a foreword by the beneficiary, identified as the petitioner’s “Director of Christian Education & District Development.”

On September 2, 2005, the petitioner had filed a previous petition on the beneficiary’s behalf, receipt number EAC 05 241 52949. The petitioner, in the present proceeding, submitted a copy of the May 19, 2006 denial notice relating to that earlier petition. The decision included this statement: “Documentation contain[ed] in the record states that the beneficiary has been serving your organization as a religious instructor from September 1, 2003 through March 31, 2005.” March 31, 2005 fell just outside the two-year qualifying period for the petition now under consideration.

On June 5, 2007, the director issued a request for evidence, stating that, while the present petition describes the beneficiary as a “Director of Training and Development,” the petitioner’s earlier petition described the beneficiary as a “religious instructor” and “director of Christian education and mission development.” The director instructed the petitioner to “[p]rovide a statement regarding this discrepancy” and “documentary evidence establishing the beneficiary’s position, title and duties” during the 2005-2007 qualifying period.

In response, in a letter dated July 16, 2007, [REDACTED] stated:

It is true that . . . [from] April 2, 2005 thru August 31, 2006 [the beneficiary] was fully employed by our organization as director of Christian education and mission development, for him to be in charge of the bible school, seminars and conferences and syllabus development for our Sunday school programs[.]

It is true that in September 2006 [the beneficiary] was given the current job title as Director of Training and Development due to the expansion in our organization. . . .

We attest that [the beneficiary] remains first of all in our organization, **a full time religious minister and his present proffered job position is as Director of training and development.**

(Emphasis in original.) The director denied the petition on August 13, 2007, stating “the evidence is insufficient to establish that the beneficiary has been working continuously in the same type of work as the proffered position for the two-year period immediately preceding the filing of the petition.” Citing the “2005 Almanac” and its reference to the beneficiary as “Director of Missions & Development,” as well as “a letter signed by [REDACTED] on September 1, 2005,” the director concluded that the record contains “numerous inconsistencies in regards [*sic*] to the beneficiary’s work history.”

The perceived inconsistencies in the record appear to relate not to the beneficiary’s “work history,” as the director has asserted, but rather to numerous variations in the beneficiary’s job title. On appeal, Pastor [REDACTED] states that the beneficiary’s job titles “are for operational purposes” and do not take precedence over “the primary vocation and office of the beneficiary as a full time religious minister/pastor.” The

petitioner's explanation is plausible and credible. The record does not contain any evidence that the petitioner has maintained separate positions, with separate duties, for a "Director of Missions & Development," "Director of District Development," "Director of Training & Development" and "Director of Christian Education & District Development." Viewed in the context of the record, the petitioner's use of these different titles with respect to the beneficiary does not indicate that the petitioner has been unable to present a consistent picture of the beneficiary's role in the organization. It appears, instead, that [REDACTED] is correct in asserting that the beneficiary's exact job title is of secondary importance.

[REDACTED]'s September 1, 2005 letter, cited by the director, contains the following list of the beneficiary's "primary responsibilities":

1. To serve as provost of [the petitioner's] ministerial Bible College New Jersey district for training of our ministers.
2. To conduct regular leadership training for the church officers and non ministerial staff.
3. To prepare Sunday school syllabus, educational and study materials for the use of our members in our local churches in the district. . . .
4. To develop and coordinate developmental projects and programs for children, youth and adult[s] in our local churches.
5. To facilitate and coordinate new programs and projects for the expansion of the church and community benefits.

The above list is essentially identical to the list subsequently provided in [REDACTED]'s April 2, 2007 letter, except that the earlier letter does not mention a "prison and hospital ministry." Therefore, the two letters do not establish that the beneficiary's duties have significantly changed. Rather, they show the opposite.

The petitioner has overcome the grounds for denial stated in the director's decision, and the AAO's appellate review of the record has revealed no obvious new grounds for denial. The petitioner has passed a verification check conducted pursuant to a memorandum from Michael Aytes, Associate Director, Domestic Operations, and Louis D. Crocetti, Jr., Division Chief, Office of Fraud Detection and National Security, *Standard Operating Procedures for Religious Worker Petition Anti-Fraud Enhancements* (July 5, 2006). There is no indication that the verification check has revealed any new basis for denial.

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. 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.