

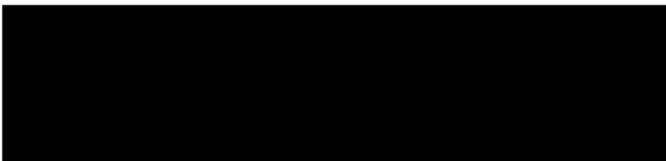


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U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536



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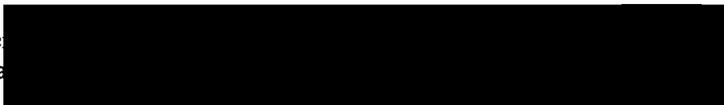
JUL 3 2001

File: WAC-99-036-53001

Office: California Service Center

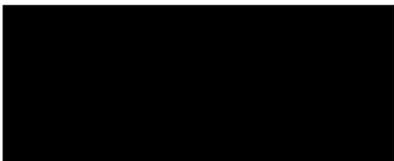
Date:

IN RE: Petitioner  
Beneficiary



Petition: 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)

IN BEHALF OF PETITIONER:



Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:

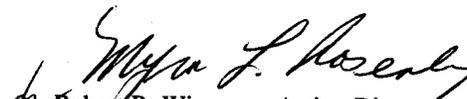
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

  
Robert P. Wiemann, Acting Director  
Administrative Appeals Office

**DISCUSSION:** The immigrant visa petition was denied by the Director, California Service Center. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a church. It seeks classification of the beneficiary as a special immigrant minister pursuant to section 203(b)(4) of the Immigration and Nationality Act (the "Act"), 8 U.S.C. 1153(b)(4), in order to employ him as a "youth and children pastor."

The center director denied the petition determining that the petitioner failed to establish that the beneficiary had had two years of continuous experience in the proffered position as required. The director noted that the claim that the beneficiary served in the position in a voluntary capacity was not sufficient. The director further noted that the petitioner furnished scant information regarding the beneficiary or the proposed position.

On appeal, counsel for the petitioner argued that the petitioner as a non-profit organization often relies on volunteers. Counsel argued that the church currently has 1000 members and a single pastor and it seeks to hire the beneficiary as an additional minister.

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, 2003, 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, 2003, 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 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 petitioner asserted that it is a church affiliated with the Church of God denomination headquartered in Cleveland, Tennessee. It was stated that the beneficiary is a native and citizen of Romania who was last admitted to the United States on September 2, 1992, in J-1 classification as an international exchange visitor. His current immigration status is unknown.

At issue is whether the beneficiary satisfies the two-year experience requirement. It must first be determined whether the petitioner has established that the beneficiary is qualified as a minister as defined in these proceedings.

8 C.F.R. 204.5(m) (3) states, in pertinent part, that each petition for a religious worker must be accompanied by:

(ii) A letter from an authorized official of the religious organization in the United States which (as applicable to the particular alien) establishes:

(A) That, immediately prior to the filing of the petition, the alien has the required two years of membership in the denomination and the required two years of experience in the religious vocation, professional religious work, or other religious work.

(B) That, if the alien is a minister, he or she has authorization to conduct religious worship and to perform other duties usually performed by authorized members of the clergy, including a detailed description of such authorized duties. In appropriate cases, the certificate of ordination or authorization may be requested.

8 C.F.R. 204.5(m) (2) states, in pertinent part, that:

*Minister* means an individual duly authorized by a recognized religious denomination to conduct religious worship and to perform other duties usually performed by authorized members of the clergy of that religion. In all cases, there must be a reasonable connection between the activities performed and the religious calling of the minister. The term does not include a lay preacher not authorized to perform such duties.

Regarding the beneficiary's standing as a minister, the petitioner submitted inconsistent claims. In one letter the petitioner stated that the beneficiary was engaged as a minister from 1989 to 1992 in Romania. The pastor of the petitioning church later stated that

the church "ordained" the beneficiary in 1994 and that he was again "ordained" by the Church of God denomination in 1997.

The petitioner claims to be affiliated with an established religious denomination, the Church of God. However, the petitioner has not explained the standards required to be recognized as a minister in its denomination or shown that the beneficiary has satisfied such standards. The petitioner furnished a "certificate of ordination," relating to the claimed 1997 ordination and asserted that the beneficiary holds a master degree in divinity and is pursuing a Ph.D. degree in theology. However, the petitioner failed to furnish verification of these claims from an official of the denomination. It must be concluded that the petitioner has failed to adequately establish that the beneficiary is a qualified minister.

First, simply producing documents purported to be certificates of ordination, which are not based on theological training or education, is not proof that an alien is entitled to perform the duties of a minister. Matter of Rhee, 16 I&N Dec. 607 (BIA 1978).

Second, the petitioner failed to provide a comprehensive and consistent description of the beneficiary's alleged vocation as a minister of religion. Absent a detailed description of the beneficiary's theological education, denominational affiliation, ordination as a minister, and the practice of his vocation, the Service is unable to conclude that the alien is a qualified minister of religion and is recognized as such by the Church of God in the United States.

The next issue is whether the petitioner established that the beneficiary was continuously carrying on the vocation of a minister for at least the two years preceding the filing of the petition.

The petition was filed on November 18, 1998. Therefore, the petitioner must establish that the beneficiary had been continuously engaged as a minister of religion since at least November 18, 1996.

In the case of special immigrant ministers, it was held in Matter of Faith Assembly Church, 19 I&N 391 (Comm. 1986) that the alien must have been engaged solely as a minister of the religious denomination for the two-year period in order to qualify for the benefit sought. (emphasis added.)

In this case, the petitioner has not provided any evidence of the beneficiary's endeavors since his alleged admission to the United States. It was claimed he was admitted as an exchange visitor, but no proof of the date or classification of admission was furnished. Nor did the petitioner provide any explanation of the type of exchange program under which the beneficiary was allegedly admitted. Merely going on record without supporting documentary

evidence, is not sufficient for purposes of meeting the burden of proof in these proceedings. See Matter of Treasure Craft of California, 14 I&N Dec. 190 (Reg. Comm. 1972).

In addition, the petitioner made no claim and submitted no evidence that the beneficiary was engaged "solely" as a minister of religion during the two-year period.

Accordingly, it must be concluded that the petitioner failed to overcome the grounds for denial 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. Here, the petitioner has not sustained that burden.

**ORDER:** The appeal is dismissed.