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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



Administrative Copy

File: [Redacted]

Office: Nebraska Service Center

Date: JUL 16 2001

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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: Self-represented
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

Myra L. Rosenberg
for Robert P. Wiemann, Acting Director
Administrative Appeals Office

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

The petitioner is an individual who seeks classification 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 be employed at a church.

The center director denied the petition determining that the petitioner failed to establish that he had been continuously carrying on the vocation of a minister for at least the two years preceding the filing of the petition as required for special immigrant classification.

On appeal, the petitioner submitted a written statement.

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 is described as a native of Korea and a citizen of Canada who was admitted to the United States on September 28, 1997,

as an F-1 nonimmigrant student authorized to pursue a course of study in "ministry" at [REDACTED] University in [REDACTED]. Documentation was submitted that the petitioner was ordained as a minister in 1970. The petitioner submitted a letter from the Indiana Conference of the Seventh-Day Adventist Church recognizing his credentials as a pastor and offering him the position of pastor at a member church with a congregation of 45 members at an annual salary of \$25,000.

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; or

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.

At issue in this matter is whether the petitioner has established that he has the requisite two years of experience as a minister.

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 and must intend to be engaged solely as a minister in the proffered position.

The petition was filed on March 1, 2000. Therefore, the petitioner must establish that he was solely and continuously carrying on the vocation of a minister since at least March 1, 1998.

In this case, the job-offer letter from the Indiana Conference dated July 10, 2000, stated that the petitioner "serves as a part-time pastor" at the church for which classification is sought. The letter did not state the date on which the employment commenced.

On appeal, the petitioner stated that he has "worked for the Lord" for "31.46 years" in Korea, Canada and the United States. He also stated he did not solicit funds or depend on supplemental employment, but that he "volunteered to visit a small churches around while I was studying at Andrews University Seminary."

After careful review of the record, it must be concluded that the petitioner failed to overcome the grounds for denial of the petition. The petitioner failed to provide a detailed description of his activities during the two-year qualifying period. Both the statements from the denomination and the statements from the alien contain insufficient detail to establish that the eligibility requirement has been satisfied. The petitioner failed to provide a detailed accounting of the dates and purpose of his educational pursuit, the dates and places of employment as a minister, or a comprehensive description of his employment history. Special immigrant classification is not available to a self-employed minister or preacher. The petitioner also failed to submit any corroborative documentation, such as his tax returns, to support the petition. Absent such a description of the alien's background, supported by corroborative documentation, the Service is unable to conclude that the petitioner had been continuously and solely engaged in the vocation of a minister. The record does not adequately establish that he had been continuously and solely carrying on the vocation of a minister for a qualifying religious organization since at least March 1998 or establish that he would be solely engaged as a minister in the proffered position.

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.