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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



Public Copy

File: EAC-99-265-51020

Office: Vermont Service Center

Date: JUL 10 2001

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: 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. Roserey
for Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Director, Vermont 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 by a church.

The center director denied the petition determining that the petitioner failed to show he had been continuously carrying on a religious occupation for the two years preceding the filing of the petition as required.

On appeal, the petitioner submitted a letter from an accountant who testified that the petitioner received an allowance of \$1,000 per month from "Iglesia Cristiana Mivia de PR, Inc." from December 1997 to June 1999.

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 and citizen of Costa Rica who last entered the United States on December 3, 1997, remained beyond his authorized stay, and has resided since such time in an unlawful status. The petitioner claims to be an ordained minister, to have carried on the vocation of a minister for an unspecified period of time, and seeks classification to be employed by a church. The petitioner provided no information regarding the church at which he seeks to be employed.

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.

The director reasonably relied on significant deficiencies in petitioner's claims and the sparse evidence submitted in support of the petition. However, the director erroneously relied on the requirements for workers in a lay religious occupation, rather than a minister pursuing a religious vocation.

It must first be determined whether the petitioner has established that he is qualified as a minister as defined in these proceedings.

The petitioner claims to be affiliated with two churches on the mainland of the United States. However, the petitioner has not explained the standards required to be recognized as a minister in

his denomination or shown that he has satisfied such standards. The petitioner furnished a "certificate of ordination," but did not provide any description of or proof of his theological education in order to qualify for ordination. 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).

Therefore, the petitioner has not established that he is a minister as defined in these proceedings eligible for classification as a special immigrant minister.

It must also be determined whether the beneficiary has the requisite two years of experience as a minister.

The petition was filed on September 9, 1999. Therefore, the petitioner must establish that he was continuously carrying on the vocation of a minister since at least September 9, 1997.

Regarding the prior work experience, the petitioner claimed that he has served as a minister at various churches, at times more than one church simultaneously. The petitioner failed to submit any contemporaneous documentation to support his claim such as tax records for himself or from the church's that allegedly employed him. Simply 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 has not furnished a detailed description of his employment or endeavors in the United States or abroad. Absent a comprehensive description of the beneficiary's employment history, supported by corroborating evidence such as tax records, the Service is unable to determine that the beneficiary had been engaged in any particular occupation, religious or otherwise, for the two year period.

Third, 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. The petitioner made no claim and submitted no evidence that he was solely carrying on the vocation of a minister since at least September 1997.

Beyond the discussion in the director's decision, the petitioner has failed to demonstrate eligibility on other grounds. The petitioner has failed to show a job offer from a qualifying employer as required by 8 C.F.R. 204.5(m)(4) or that the church has the ability to pay the proffered wage pursuant to 8 C.F.R.

204.5(g)(2). As the appeal will be dismissed on the grounds discussed, these issues need not be examined further.

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.