

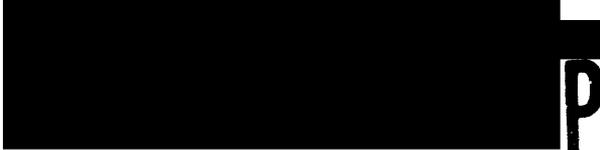


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U.S. Department of Justice

Immigration and Naturalization Service

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



Public Copy

File: [Redacted]

Office: Texas Service Center

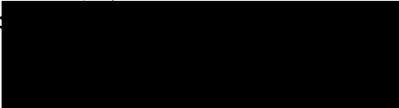
Date: JUL 30 2001

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:



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
for Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Director, Texas Service Center. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be rejected; the record will be remanded.

The petitioner is the pastor of a church who 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 that the alien may be employed as a pastor for an unidentified affiliated church of the same denomination at a salary of \$1,500 per month.

The Form I-360 petition was filed on December 15, 1999, without the required initial evidence to support the petition. On March 31, 2000, the center director issued a written request for evidence to support the petition. In an undated decision, the center director denied the petition finding that the petitioner failed to respond to the request for additional information. On the cover letter of the decision, the director inadvertently advised the petitioner of appeal rights from the decision.

Pursuant to 8 C.F.R. 103.2(b)(13), if all requested initial evidence and requested additional evidence are not submitted by the required date, the petition shall be considered abandoned and, accordingly, shall be denied. Pursuant to 8 C.F.R. 103.2(b)(15), a denial due to abandonment may not be appealed, but the petitioner may file a motion to reopen under 8 C.F.R. 103.5.

Counsel filed a Form I-290B Notice of Appeal indicating that a brief would be filed within thirty-days. The record does not show that the Service has received such a brief from counsel. However, the record contains documentation submitted under a cover letter dated July 7, 2000. It is unclear whether the director considered this evidence.

The record will be remanded to allow the center director to determine if the petition was abandoned. If the petitioner did respond to the request for evidence dated March 31, 2000, the director shall consider such evidence and issue a new decision.

Administrative notice is made that the record at present does not contain the required initial evidence for a petition for classification as a special immigrant minister. The petitioner has failed to establish the intended employer, that it is a qualifying organization exempt from, or eligible for exemption from, taxation as described in section 501(c)(3) of the Internal Revenue Code of 1986 as it relates to religious organizations pursuant to 8 C.F.R. 204.5(m)(3)(i); that it has the ability to pay the proffered wage pursuant to 8 C.F.R. 204.5(g)(2); that the beneficiary is qualified as a minister of religion pursuant to 8 C.F.R. 204.5(m)(2), that the beneficiary has been continuously and solely carrying on the



vocation of a minister for the two years preceding the filing of the petition pursuant to 8 C.F.R. 204.5(m)(3)(ii)(A), and that the intended employer has tendered a qualifying job offer pursuant to 8 C.F.R. 204.5(m)(4).

ORDER: The record will be remanded for the issuance of a new decision.