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U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS; AAO, 20 Mass. 3/F
Washington, D.C. 20536

File: EAC-01-177-50160 Office: Vermont Service Center

Date: JUN 03 2003

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)

ON BEHALF OF PETITIONER

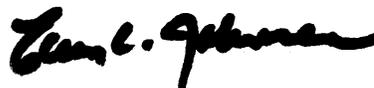
INSTRUCTIONS:

This is the decision 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.

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 that 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 Bureau of Citizenship and Immigration Services (Bureau) 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.



Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is described as 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 an educational missionary.

The director denied the petition finding that the petitioner failed to establish that the beneficiary has been continuously employed in a full-time religious occupation for at least two years preceding the filing of the petition pursuant to 8 C.F.R. § 204.5(m)(1).

On appeal, the petitioner's counsel submitted a brief and additional evidence. Counsel stated that the position of education evangelist requires specialized training which the beneficiary has completed and that the petitioner has sufficient evidence to establish that the beneficiary has been continuously employed in a full-time religious occupation for at least two years preceding the filing of the petition.

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 in this matter is a Korean Presbyterian Church. It has provided no information regarding the size of its congregation or the number of religious employees it employs. The beneficiary is a native and citizen of Korea who was last admitted to the United States on April 9, 1991, as a B-2 visitor. The record reflects that he remained beyond his authorized stay and has resided in the United States since such time in an unlawful status. The petitioner indicated on the petition form that the beneficiary has never been employed in the United States without authorization.

The issue to be addressed in this proceeding is whether the beneficiary has been continuously employed in a full-time religious occupation for at least two years preceding the filing of the petition

Regulations at 8 C.F.R. § 204.5(m)(1) state, in pertinent part, that:

All three types of 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.

The petition was filed on May 15, 2001. Therefore, the petitioner must establish that the beneficiary had been continuously engaged in a religious occupation for at least the two years since May 15, 1999.

In a letter of employment signed by the petitioner's general secretary on February 1, 2002, it was asserted that the beneficiary has worked for the petitioner as a full-time evangelist and pastor from "January 1998 to the present." The director found that the documentary evidence submitted to corroborate this claimed employment was insufficient to establish that the beneficiary had been continuously carrying on a religious occupation for the minimum of two years.

A review of the record reveals that the petitioner initially submitted a Form 1040 U.S. Individual Income Tax Return for the year 2000 for the beneficiary and his spouse. The tax form was accompanied by a Form W-2 Wage and Tax Statement reflecting his spouse's employment, but none was provided for the beneficiary.

In response to the Bureau's request for additional evidence, the petitioner's counsel submitted payroll statements for each month of the year 2001, cancelled checks from the petitioner to the

beneficiary dated November 2001, December 2001 and January 2002 as well as Form 1040 U.S. Individual Income Tax returns for the beneficiary for the years 1997, 1998, 1999, 2000 and 2001. Counsel also submitted a 1997 Form W-2 Wage and Tax Statement reflecting the beneficiary's employment for another employer. No Form W-2 statements were submitted for the years 1998 through 2001, inclusive.

In this case the petitioner has submitted no evidence of employment other than unsupported tax documents for the years 1999 and 2000. The petitioner in this matter has not provided a comprehensive description of the beneficiary's employment history for the period from May 1999 to January 2001. There is no evidence that the beneficiary was continuously employed by the church for the requisite two-year period. 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 provided no proof of the beneficiary's alleged residence in the United States since 1991 and no indication of his means of financial support. Absent a detailed description of the beneficiary's employment history in the United States, supported by corroborating documentation, the Bureau is unable to conclude that the beneficiary had been engaged in any particular occupation, religious or otherwise, during the two-year qualifying period. For this reason, the petition may not be approved.

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.