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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

JUL 16 2003

File:  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)

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, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a church, seeking classification of the beneficiary as a 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), in order to employ him as a missionary pastor at an undetermined salary.

The director denied the petition, finding that the petitioner failed to establish that the alien beneficiary had been a member of the petitioner's denomination for at least the two years preceding the filing of the petition as required.

Counsel for the petitioner filed a timely appeal with a brief arguing that there is a sufficient affiliation between the beneficiary's foreign churches and the petitioning church to satisfy the denominational membership requirement.

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, the Abundant Life Evangelical Fellowship (the Fellowship), is a church declaring 55 members in its congregation. The Fellowship was incorporated in 1990 and claims to be a member of the Conference of Korean Southern Baptist Churches in Southern California.

According to the evidence on the record, the beneficiary last entered the United States as a B-1 nonimmigrant visitor for business on June 26, 2000.

The sole issue to be addressed in this proceeding is whether the petitioner established that the alien beneficiary had been a member of the petitioner's denomination for at least the two years immediately preceding the filing of the petition.

In order to establish eligibility for special immigrant classification, the petitioner must establish that the beneficiary was a member of the petitioner's religious denomination for at least the two years preceding the filing of the petition.

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.

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

Religious denomination means a religious group or community of believers having some form of ecclesiastical government, a creed or statement of faith, some form of worship, a formal or informal code of doctrine and discipline, religious services and ceremonies, established places of religious worship, religious congregations, or comparable indicia of a bona fide religious denomination. For the purposes of this definition, an inter-denominational religious organization which is exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986 will be treated as a religious denomination.

The petition was filed on April 27, 2001. Therefore, the petitioner must establish that the beneficiary had been a member of the petitioner's denomination since at least April 27, 1999.

The statute requires that the alien must have been "a member of a religious denomination having a bona fide nonprofit, religious organization in the United States" for at least two years.

The regulation at 8 C.F.R. § 204.5(m)(2) defines a denomination, in part, as a community of believers having some form of ecclesiastical government, a creed, places of worship etc. Based on this definition, the petitioning church may be considered a denomination. At issue is whether the petitioning church can be considered to be the same denomination as those in which the beneficiary had been a member for the two years immediately preceding the filing of the petition.

On appeal, counsel asserts that the Fellowship, the Community of China Mission and the Yedarm Baptist Church, all belong to the same denomination, i.e., the Baptist Church. The beneficiary was a member of the latter two organizations in the two-year period immediately preceding the filing of the instant petition. In support of his assertion, the petitioner submitted a translated letter from an official of the Community of China Mission, located in Seoul, Korea, stating that it is "a mission group with its root in the Baptist denomination and was founded by a group of mostly Baptist ministers."

The Bureau is mindful that many religious denominations have close international affiliations, but of necessity maintain separate national governing bodies and may be known by slightly different names. Few religious denominations have a single recognized global ecclesiastical governing body. The regulations are silent on the degree of affiliation necessary between a foreign denomination and a United States denomination to be considered as members of the same denomination for the purpose of satisfying the two-year membership requirement for special immigrant classification. The determination must then be made on a case-by-case basis based on the evidence presented.

Here, the petitioner states that all three religious organizations have a similar creed based on the "Baptist Church." The Bureau has long held that this degree of similarity is insufficient to reach a determination that the churches are members of the same denomination.

On review, it must be concluded that the record of proceeding contains insufficient evidence to establish that these three religious organizations may be treated as a single denomination for the purposes of section 101(a)(27)(C)(i) of the Act. To establish the requisite degree of affiliation, the Bureau would require evidence of a formal affiliation agreement entered into by the national governing bodies of all involved churches. The petitioner in this matter has not furnished documentation that such an affiliation exists. Therefore, the petitioner has failed to overcome the basis for denial of the visa petition.

Another issue in this proceeding is whether the petitioner has made a qualifying job offer. 8 C.F.R. § 204.5(m)(4) requires that each petition for a religious worker be accompanied by a qualifying job offer from an authorized official of the religious organization at which the alien will be employed in the United States. The official must state the terms of payment for services or other remuneration. Since the appeal will be dismissed for the reasons stated above, this issue 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.