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

ADMINISTRATIVE APPEALS OFFICE
CIS-20 20 Mass, 3/F
425 I Street, N.W.
Washington, DC 20536



NOV 12 2003

File: 

Office: VERMONT SERVICE CENTER

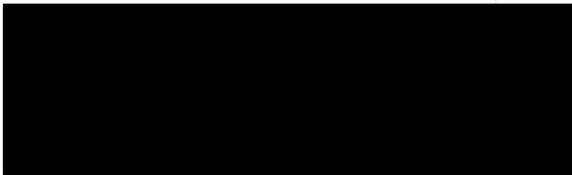
Date:

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 Citizenship and Immigration Services (CIS) 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.

Cindy M. Gomez for
Robert P. Wiemann, Director
Administrative Appeals Office

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

The petitioner is a religious organization. It seeks 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), to perform services as an "Assistant Choir Leader." The director determined that the position offered is not a qualifying religious occupation or vocation. The director also determined that the petitioner had not established that the beneficiary had been engaged continuously in a qualifying religious vocation or occupation for the two full years immediately preceding the filing of the petition.

On appeal, counsel indicated that a brief and/or additional evidence would be submitted in support of the appeal within 30 days from the date the appeal was filed. To date, no brief or additional evidence has been received by this office. Therefore, the record must be considered complete.

Pursuant to 8 C.F.R. § 103.3(a)(1)(v), an officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

On appeal, counsel requested additional time to present proof that the duties of the proffered position relate to a traditional religious function. However, counsel has not identified any erroneous conclusion of law or statement of fact for the appeal. As counsel has provided no additional evidence on appeal to overcome the decision of the director, the appeal will be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

The petitioner indicated that the beneficiary entered the United States on March 23, 1999, as a B-2 visitor with authorization to remain in the United States until September 22, 1999. The Form I-797A, Application to Extend/Change Non-Immigrant Status, reflects that the beneficiary's authorized stay was extended until March 22, 2000. The petitioner noted on the Form I-360, Petition for Amerasian, Widow or Special Immigrant, that the beneficiary had never worked in the United States without permission. No explanation of his means of support since entering the United States is included in the record. The record also reflects that a Form I-130, Petition for Alien

Relative, was filed on March 10, 2001, on behalf of the beneficiary by his U.S. citizen father. The record further reflects that the beneficiary was served a Notice to Appear (NTA) at Los Angeles, California, dated January 7, 2003, placing him in Removal Proceedings, related to overstaying his authorized stay in the United States. That hearing has been scheduled for July 21, 2004.

Upon review of the record, the petitioner also appears to not have submitted sufficient evidence to establish that the beneficiary has received a qualifying job offer; that the petitioner has had the ability to pay the beneficiary the proffered wage since the filing date of the petition; and that the beneficiary's activities for the petitioner require any religious training or qualifications. The beneficiary does not appear to be qualified as a religious worker.

Although the instant appeal is summarily dismissed in view of the petitioner's lack of submission of additional evidence on appeal, it is noted that additional reasons for denial of this petition were not addressed.

In visa petition proceedings, the burden of proof remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. Here, that burden has not been met. In accordance with 8 C.F.R. § 103.3(a)(1)(v), the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.