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

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



File:



Office: VERMONT SERVICE CENTER

Date:

NOV 19 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 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, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner 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), in order to employ her as an "executive team missionary."

The director determined that the petitioner had not established that the beneficiary qualified as a religious worker, or that the job qualified as a religious occupation.

On appeal, counsel provided additional information in support of the appeal. Counsel also requested oral argument. Oral argument, however, is limited to cases where cause is shown. It must be shown that a case involves facts or issues of law which cannot be adequately addressed in writing. In this case, no cause for oral argument is shown. Consequently, the request for oral argument is denied.

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, 2008, 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, 2008, 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;

(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year

period described in clause (i).

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

Such a petition may be filed by or for an alien, who (either abroad or in the United States) for at least the two years immediately preceding the filing of the petition has been a member of a religious denomination which has a bona fide nonprofit religious organization in the United States. The alien must be coming to the United States solely for the purpose of carrying on the vocation of a minister of that religious denomination, working for the organization at the organization's request in a professional capacity in a religious vocation or occupation for the organization or 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 Revenue Code of 1986 at the request of the organization. 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.

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

Religious occupation means an activity which relates to a traditional religious function. Examples of individuals in religious occupations include, but are not limited to, liturgical workers, religious instructors, religious counselors, cantors, catechists, workers in religious hospitals or religious health care facilities, missionaries, religious translators, or religious broadcasters. This group does not include janitors, maintenance workers, clerks, fund raisers, or persons solely involved in the solicitation of donations.

Regulations at 8 C.F.R. § 204.5(m)(3) state, 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;
and ...

(D) That, if the alien is to work in another religious vocation or occupation, he or she is qualified in the religious vocation or occupation. Evidence of such qualifications may include, but need not be limited to, evidence establishing that the alien is a nun, monk, or religious brother, or that the type of work to be done relates to a traditional religious function.

The first issue to be addressed in this proceeding is whether the petitioner has established that its offered position of "executive team missionary" is a qualifying religious occupation.

To establish eligibility for special immigrant classification, the petitioner must establish that the specific position that it is offering qualifies as a religious occupation as defined in the above cited regulations. The statute is silent on what constitutes a "religious occupation" and the regulation states only that it is an "activity which relates to a traditional religious function."

CIS interprets the term "traditional religious function" to require a demonstration that the duties of the position are directly related to the religious creed or beliefs of the denomination, that the position is defined and recognized by the governing body of the denomination, and that the position is traditionally a permanent, full-time, salaried occupation within the denomination. The Bureau must consider each petition on its individual merits.

On appeal, counsel describes the position of "executive team missionary" as being unique in scope because it combines ministerial, teaching and administrative functions." Counsel asserts that:

[A]n executive team missionary is on call 24 hours a day to address spiritual needs of the ministry or individuals; provide counseling, put together disaster relief teams on short notice; adept at preaching and teaching the Word of God; as well as providing spiritual and administrative oversight to Missionary Teams both within and outside of the United States.

Counsel argues that the position of executive team missionary requires a rigorous course of spiritual and theological training as well as ratification by the petitioner's board of directors prior to appointment as an executive team missionary. Counsel states that the mandatory theological training requirements include: completion of the University of Nations' Discipleship Training School; additional credit hours of Specialized Training addressing evangelism, discipleship and cultural issues; as well as, "documented and verifiable prior Missionary experience." Counsel

further states that the mandatory spiritual requirements include a proven ability to preach and teach the "Gospel of Jesus Christ, demonstrated and verifiable spiritual maturity, affirmation and adherence to the Christian Magna Carta and the Manila Covenant as well as other ministry requirements."

First, the petitioner submitted no documentation that the position is a traditional full-time paid occupation in its denomination as defined and recognized by the governing body of the denomination. 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). The petitioner provided the Bureau with Exhibit J, *The Manual, Youth with a Mission*, but the manual makes no mention of the position of executive team missionary.

Second, the petitioner gave no indication that it has ever employed a person in this capacity in the past and gave no explanation of its decision to do so at this time. Consequently, the petitioner has not established that the proposed position constitutes a qualifying religious occupation. Therefore, the petition must be denied for this reason.

The other issue raised by the director that will be addressed in this proceeding is whether the beneficiary qualifies to engage in a religious occupation.

In a letter dated April 23, 2001, the director of the petitioner's Richmond, Virginia headquarters, states that the beneficiary has been serving them for over 5 years, and "has been the backbone of our ministry here in many ways." The letter also states that the beneficiary is deeply involved with its discipleship training school where she "was first a student and since has become a leader, a discipler of other young people and a mentor of students. The letter further states, in pertinent part, that:

████████████████████ is a very international center, and it is imperative that we have persons of other nations to serve on our staff. Miss ██████████ (the beneficiary) has become part of the Academic Committee serving our base planning school. And [sic] has also taught in our schools from her cross-culture experience as Christian serving in other nations. She has also led international missions teams from Richmond to Brazil, Uruguay, Colombia, Venezuela and Israel. In the country she took the teams they [sic] were working with local churches under the leadership of ██████████ locally. When being in Richmond, Virginia she also oversees the housing of our international staff and students. Miss ██████████ has also made a significant contribution to the local church congregation, Christ Presbyterian Church, of which she is a member. In conjunction with the church

she has led a youth missions team to Venezuela, where she led a Vacation Bible School for over a hundred children.

We have recruited Miss [REDACTED] for these tasks because of her unique training and background. She successfully graduated from The Reformed Bible School (Reformatorische Bijbel School) in Zeist the Netherlands in June 25, 1982. And [sic] has been Teaching Religion in Public Schools [sic] in the Netherlands for over 11 years, before coming to [REDACTED]. The unique teaching experience[s] she acquired, have given her the ability to teach in our schools and to be a great resource in our Academic Committee.

She is also skilled in prayer ministry, through her training in the school of Intercessory Prayer.

Miss [REDACTED] has been an active member of the Dutch Reformed Church in Hellevoetsluis and Maarssen the Netherlands since 1978, and an active member of Christ Presbyterian Church in Richmond since 1995.

Miss [REDACTED] presently receives most of her financial support from friends and family in the Netherlands who believe in her mission. Since January 2000 Christ Presbyterian Church Richmond has started to support her financially on a regular base [sic]. Since 1995 Miss [REDACTED] has received sufficient remunerations.

In a letter dated November 11, 2002, the Southeast District Director of the Youth with a Mission Orlando states that the beneficiary has successfully completed the requirements for an "executive team missionary." The requirements are indicated as follows:

Qualifications:

Prior to appointment in ministry, all individuals are required to present verifiable evidence of spiritual maturity and theological training; including an ability to teach and preach the Holy Word of God. Therefore, the following qualifications are necessary and mandated **prior** to ratification by the Board of Directors as an Executive Team Missionary. After completion of all requirements and approval by the Base Council and ratification by the Board of Directors, a candidate is deemed an authorized and trained Executive Team Missionary duly authorized to minister in the United States of America and foreign YWAM locations abroad.

DISCIPLESHIP TRAINING SCHOOL. Successful Completion of the University of Nations Discipleship Training School

curriculum is a mandatory requirement that cannot be waived or substituted by other courses of study. **Important Note:** All components of the curriculum must be completed successfully within the allotted time requirement or the training will not be deemed to have been completed "successfully." Curriculum, as authorized, includes but is not limited to intensive courses of study covering: (1) *The Christian's Relationship With God and Others; Humility and Openness; Intercessory Prayer and Principles of Christian Living.* Additionally, the mandatory period of outreach (foreign or domestic) following classroom instruction must be completed or the training will not be deemed to have been completed "successfully."

SPECIALIZED TRAINING AND STUDY. A minimum of ten credit hours in an approved course of study addressing cross cultural issues and developments affecting Evangelism and Discipleship. (Note: This credit-hour requirement may be fulfilled through the University of Nations curriculum or an equivalent of study through a domestic or foreign Bible School, Seminary or other ministerial training program. Degrees or Certificates, in language other than standard English, must be accompanied by a duly authorized Translation Certificate Statement.

PRIOR MISSIONARY EXPERIENCE. Evidence of a minimum of two years of religious duty as a missionary is required in addition to all other spiritual and theological training requirements. Evidence of this requirement, if in a language other than standard English, must be accompanied by a duly authorized Translation Certification Statement. **Important Note:** the two years of prior missionary experience must be documented by evidence other than "oral testimony" from the ministry candidate.

ADVANCED SPIRITUAL MATURITY as evidenced by a life walk committed to the lord Jesus Christ for a minimum a (sic) 5 years preceding nomination and appointment; having maintained a lifestyle above reproach morally and legally and having practiced a lifestyle consistent with the Foundation Values of YWAM.

PROVEN ABILITY TO TEACH AND PREACH THE GOSPEL OF JESUS CHRIST. In accordance with Biblical principles, all ministry candidates must possess a proven ability to teach and preach the Word of God.

THE CHRISTIAN MAGNA CARTA. Affirmation, adherence and demonstrated commitment to *The Christian Magna Carta*

document.

THE MANILA COVENANT. Affirmation, adherence and demonstrated commitment to *The Manila Covenant*.

LOCAL CHURCH AFFILIATION AND DISCIPLESHIP. Evidence of an ongoing and voluntary commitment to ministry and membership in a local Church body (for a minimum of three years prior to nomination and appointment); acting as a catalyst for the local church to include (A) training and facilitating missions involvement both in the United States and overseas and/or (B) other significant ministry duties as assigned by the local Pastor. The Pastor of the local Church, or his/her designee, must certify annually the individual's continued involvement in the local Church ministry.

APPROVAL AND RECOMMENDATION TO MINISTER BY BASE COUNCIL. Once a nominee for appointment has successfully completed the above spiritual and theological requirements for ministry, evidence will be submitted to the Base Council for review and authorization. Once review and authorization have been completed, *if* the Base Council approves the applicant for ministry, the application package and evidence will be submitted to the Board of Directors for ratification as an Executive Team Missionary.

RATIFICATION BY BOARD OF DIRECTORS. All candidates, after having successfully completed all of the above spiritual and theological qualifications must receive written ratification for ministry by the Board of Directors (Note: applications of nomination and appointment will not be submitted to the Board of Directors without (1) prior confirmation that all required spiritual and theological qualifications have been *previously* completed and (2) prior approval and recommendation from the Base Council). ***Once a candidate is ratified by the Board of Directors, the applicant is deemed an authorized and trained Executive Team Missionary duly authorized to minister in the United States of American and foreign YWAM locations abroad.*** If a candidate is not ratified by the Board of Directors, a written explanation will be submitted to the Base Council regarding the denial. THE DECISION OF THE BOARD OF DIRECTORS IS FINAL.

The record contains: a photocopy of a Certificate of Completion from the University of the Nations Youth with a Mission, certifying that the beneficiary has successfully completed the "School of Jewish Studies, Outreach to Israel" on April 3, 1995; a photocopy of a certificate from Youth with a Mission, certifying that the

beneficiary completed "A DISCIPLESHIP TRAINING SCHOOL" from September 1993 to March 1994 in Amsterdam, Netherlands; a photocopy of a "DIPLOMA" issued on June 25, 1982, from "The Board and Teachers of the ORGANIZATION OF THE [DUTCH] REFORMED BIBLE SCHOOL IN ZEIST," which declares that the beneficiary "With good results has completed the THREE-YEAR [REGULAR] SCHOOL CURRICULUM IN ZEIST." Also included in the record is a recommendation from the Dutch Reformed Bible School that the beneficiary should be initially selected for a teaching position for middle school or elementary school Bible classes. The petitioner has not sufficiently demonstrated that the beneficiary has met the requirements as indicated above.

The record indicates that the beneficiary teaches and mentors students, is "deeply involved" with the petitioner's Discipleship training School, oversees housing of international staff and students, and is a dedicated member of the Christ Presbyterian Church. Nevertheless, the record does not demonstrate that the beneficiary qualifies as a religious worker for the purposes of this proceeding, as it has only been shown that the beneficiary serves the petitioner on a voluntary basis in the performance of some religious functions. The record contains no evidence that the beneficiary has received any wages from any religious organization for the performance of any religious work. The record indicates that the beneficiary is mostly supported by "friends and family from the Netherlands," and since January 2000 has been supported by the Christ Presbyterian Church. The record does not indicate the amount of financial support the church has been providing the beneficiary, why the church is providing such support, or the church's affiliation with the petitioner. The record as presently constituted fails to demonstrate that the beneficiary qualifies as a religious worker. For this additional reason, the petition may not be approved.

Beyond the decision of the director, the record is not sufficient in demonstrating that the beneficiary has been continuously carrying on a religious occupation for at least the two years preceding the filing date of the petition, that the petitioner has made a qualifying job offer, that the petitioner has the ability to pay a salary to the beneficiary, or that the petitioner is a bona fide religious organization as it is recognized as an educational institution by the Internal Revenue Service. 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. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.