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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, D.C. 20536



File # [Redacted]

Office: VERMONT SERVICE CENTER

Date: SEP 30 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:



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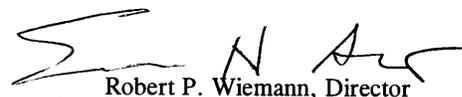
INSTRUCTIONS:

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.


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 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 a minister at an annual salary of \$24,000.

The director denied the petition, finding that the petitioner failed to establish that the beneficiary had been continuously carrying on the vocation of a minister for at least the two years preceding the filing of the petition. The director noted that the evidence on the record failed to establish that the beneficiary had been working for the petitioning organization on a full-time basis.

On appeal, counsel for the petitioner asserts that the director failed to notice that the position offered is a full-time position and that the beneficiary had at least two years of experience with the petitioning organization.

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 church established in 1985 and affiliated with the Assembly of God denomination. The petitioner established that it is a qualifying religious organization. The beneficiary is a 44-year old native and citizen of Brazil who last entered the United States on May 21, 1999 as a B-2 nonimmigrant visitor for pleasure.

The first issue to be addressed in this proceeding is whether the petitioner established that the beneficiary was continuously carrying on the vocation of a minister for at least the two years preceding the filing of the petition.

8 C.F.R. § 204.5(m)(1) states, 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.

In the case of special immigrant ministers, the alien must have been engaged solely as a minister of the religious denomination for the two-year period in order to qualify for the benefit sought and must intend to be engaged solely in the work of a minister of religion in the United States. *Matter of Faith Assembly Church*, 19 I&N 391 (Comm. 1986).

The petition was filed on June 29, 2001. Therefore, the petitioner must establish that the beneficiary had been continuously and solely carrying on the vocation of a minister of religion since at least June 29, 1999.

The petitioner submitted a letter from the pastor of the Grace Baptist Church in Sao Paulo, Brazil, stating that the beneficiary worked there as a pastor from July 1997 until February 1999, and received full payment from the church.

The president and pastor of the petitioning church wrote CIS that:

[The beneficiary] is our pastor serving the Portuguese community of Dennis Port, [Massachusetts]. The Assembly of God in Boston, located at 3 Mill Street, Dennis Port, MA has 3 services [on] Tuesday, Thursday and Sunday from 7:30 pm until 9:45 pm.

On Wednesday and Friday night from 7:00 pm to 9:00 pm there is support group of great attendance.

There are more than 13,000 Portuguese speakers in Cape Cod.

In a letter dated May 9, 2002, the president and pastor of the petitioning church wrote that:

[The beneficiary] has been active of the Assembly of God for over three years, been participating in several religious services during that period as follows:

- Teaching in the Sunday school;
- Personal Evangelism Activities;
- Helping the poor;
- Visiting the sick;
- Wedding and Funeral Services;
- Baptisms;
- Leader of Lord's Supper.

[Sic.]

In review, the beneficiary's work experience in Brazil is of no import because it does not satisfy the requirement that the beneficiary had been employed continuously in the vocation of minister in the two-year period immediately preceding the filing of the petition.

The petitioner's letter outlining the beneficiary's experience at Dennis Port failed to mention when the beneficiary commenced work and whether he was paid for his services. Further, the beneficiary's work experience at Dennis Port was part-time, rather than full-time experience.

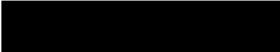
The petitioner's second letter failed to indicate how many hours a week the beneficiary was employed and whether he was paid for his services.

The petitioner did not provide a detailed description of the beneficiary's means of financial support in this country. Absent a detailed description of the beneficiary's employment history in the United States, supported by corroborating evidence such as certified tax documents, the AAO is unable to conclude that the beneficiary had been engaged in any particular occupation, religious or otherwise, during the two-year qualifying period.

Furthermore, the petitioner made no claim and submitted no evidence that the beneficiary had been engaged "solely" as a minister of religion during the two-year period. For this reason as well, the petition may not be approved.

Beyond the decision of the director, the petitioner failed to establish that the beneficiary was qualified as a minister in its denomination at the outset of the commencement of his two-years qualifying experience. The evidence on the record indicates that the Grace Baptist church ordained the beneficiary on June 30, 1996. The petitioner stated that the beneficiary was ordained by the petitioner's denomination (Assembly of God) on August 30, 1997, but the petitioner submitted a certificate of ordination from the Assembly of God dated September 19, 2000. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Since the appeal will be dismissed for the reasons stated above, this issue need not be discussed 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.