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U.S. Citizenship  
and Immigration  
Services

CI



FILE:



Office: TEXAS SERVICE CENTER

Date: **AUG 04 2004**

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 of the Administrative Appeals Office 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.

for Robert P. Wiemann, Director  
Administrative Appeals Office

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

The petitioner is an "international, interdenominational ministry." It seeks to classify 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 a "ordained minister, logistics representative for international publications and all other associated duties with the ministry." The director determined that the petitioner had not established that it qualified as a bona fide nonprofit religious organization. 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 two full years immediately preceding the filing of the petition or that it had extended a valid job offer to the beneficiary.

On appeal, counsel submits additional documentation. Counsel also states on the Form I-290B, Notice of Appeals to the Administrative Appeals Unit, that he would be sending a brief and/or additional evidence within 30 days. As of the date of this decision, more than nine months after the appeal was filed, no additional documentation has been received by the AAO. Therefore, the record will be considered complete as presently constituted.

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; 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 regulation at 8 C.F.R. § 204.5(m)(3)(i) states, in pertinent part:

(3) *Initial evidence.* Unless otherwise specified, each petition for a religious worker must be accompanied by:

(i) Evidence that the organization qualifies as a nonprofit organization in the form of either:

(A) Documentation showing that it is exempt from taxation in accordance with § 501(c)(3) of the Internal Revenue Code of 1986 as it relates to religious organizations (in appropriate cases, evidence of the organization's assets and methods of operation and the organization's papers of incorporation under applicable state law may be requested); or

(B) Such documentation as is required by the Internal Revenue Service to establish eligibility for exemption under § 501(c)(3) of the Internal Revenue Code of 1986 as it relates to religious organization.

To meet the requirements of 8 C.F.R. § 204.5(m)(3)(i)(A), a copy of a letter of recognition of tax exemption issued by the Internal Revenue Service (IRS) is required. In the alternative, to meet the requirements of 8 C.F.R. § 204.5(m)(3)(i)(B), a petitioner may submit such documentation as is required by the IRS to establish eligibility for exemption under § 501(c)(3) of the Internal Revenue Code (IRC) of 1986 as it relates to religious organizations. This documentation includes, at a minimum, a completed IRS Form 1023, the Schedule A supplement, which applies to churches, and a copy of the organizing instrument of the church which contains a proper dissolution clause and which specifies the purposes of the organization.

The petitioner submitted a certification from the state of Florida, reflecting that it is a California corporation authorized to do business in Florida. The petitioner also submitted the Articles of Incorporation for Reinhard Bonnke Ministries, Inc. in the state of California.

In response to the director's request for evidence (RFE) dated April 7, 2003, the petitioner submitted a copy of IRS Form 1023 for [REDACTED] dated February 24, 1981, completed prior to its beginning operation. The Form 1023 states that one of the activities the [REDACTED] Inc. proposed to support was the petitioner, which was then active in Africa. The petitioner also submitted a copy of an IRS advance ruling letter, informing the [REDACTED] Inc. of its preliminary status as a section 501(c)(3) tax-exempt organization under sections 509(a)(1) and 170(b)(1)(a)(vi) of the IRC. The advance ruling ended on August 31, 1982.

On appeal, counsel states that the petitioner, Christ for All Nations, is another name for [REDACTED] and that a copy of the incorporation article reflecting the name would be forwarded within 30 days. As noted above, the AAO has received no further documentation from the petitioner in support of this visa petition.

The evidence submitted by the petitioner does not establish that it is a bona fide religious organization.

The regulation at 8 C.F.R. § 204.5(m)(1) states, in pertinent part, that "[a]n alien, or any person in behalf of the alien, may file a Form I-360 visa petition for classification under section 203(b)(4) of the Act as a section 101(a)(27)(C) special immigrant religious worker. 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 regulation indicates that the "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 regulation at 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.

The petition was filed on November 26, 2002. Therefore, the petitioner must establish that the beneficiary was continuously working in the religious vocation or occupation throughout the two-year period immediately preceding that date.

According to the petitioner, the duties of the proffered position include:

perform[ing] all the duties normal to an evangelist/minister . . . The beneficiary will [also] have a number of other specific duties . . . He will plan and coordinate a variety of international ongoing publications projects . . . distribut[e] books of Evangelist Reinhard Bonnke . . . speak[] at regional and national Pastors Conferences . . . take[] on some crusade administrative duties . . . [such as being] responsible for overseeing all photography and production support, and he is the liaison for the technical team.

The petitioner submitted a copy of the beneficiary's résumé, in which he stated that, from 1995 to the present, he "organized and oversaw the preaching tours for [redacted] throughout the US, and traveled with him as his assistant and coordinator." The beneficiary stated that he performed all of the duties as an evangelist/minister, including preaching and performing traditional pastoral duties such as weddings, baptism, funerals and counseling.

In response to the RFE, the petitioner submitted another copy of a résumé by the beneficiary. In that résumé, the beneficiary stated that he "was employed as the personal [redacted] .[and] assist[s] in planing (sic), organizing and preparing [redacted] run their Planners and personal Schedules, assist[s] them in their personal matters and accompan[ies] them in their travels as their Assistant." The beneficiary stated that "in Germany, I organize, prepare and coordinate Mission Partner Conferences in Europe, . . . hold Pastor Meetings in the individual areas where we hold our Conferences to motivate all local Churches to participate . . . [and] hold counselors and co-worker Seminars for all people involved in these Conferences."

The petitioner also submitted copies of the beneficiary's Form 1040, U.S. Individual Income Tax Return, for 2000 and 2001. The beneficiary identified himself on the returns as an "admin assistant." An undated copy of a personnel roster for the petitioner lists the beneficiary as "assistant to international publications."

The statute and regulations require the alien to have two years continuous experience in the occupation for which he or she seeks entry into the United States. The evidence does not reflect that the beneficiary has been continuously employed as a minister performing "normal" pastoral duties, or that he has been performing the other duties identified by the petitioner. The beneficiary stated in his first résumé that he had performed

traditional pastoral duties, however the petitioner submitted no corroborating evidence to support these statements. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). Furthermore, the beneficiary's second résumé indicates that he acted as personal assistant to [REDACTED]. However, it is noted that on the personnel roster, another individual is listed as personal assistant to [REDACTED]. The record is unclear as to the exact duties performed by the beneficiary during the requisite two-year period. It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence. Any attempt to explain or reconcile such inconsistencies will not suffice unless the petitioner submits competent objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988).

The record does not establish that the beneficiary continuously worked in the vocation or occupation for two full years preceding the filing of the visa petition.

The petitioner must also demonstrate that a qualifying job offer has been tendered. The regulation at 8 C.F.R. § 204.5(m)(4) states, in pertinent part, that:

*Job offer.* The letter from the authorized official of the religious organization in the United States must state how the alien will be solely carrying on the vocation of a minister, or how the alien will be paid or remunerated if the alien will work in a professional capacity or in other religious work. The documentation should clearly indicate that the alien will not be solely dependent on supplemental employment or the solicitation of funds for support.

The director determined that the petitioner had not submitted evidence of the terms and nature of the proffered position and thus had not established the validity of the job offer.

In his cover letter accompanying the petitioner's response to the RFE, counsel states that the beneficiary's salary is \$28,368 and that he will be working 40 hours per week. However, counsel submits no evidence to corroborate his statements. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter Of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

We note further that a copy of page 4 of the Form I-129, Petition for a Nonimmigrant Worker, was included with the petitioner's response to the RFE. On that form, the petitioner indicated that the salary for the beneficiary would be \$35,000 per year.

The petitioner has not established that the beneficiary will be solely carrying on the vocation of a minister nor has it established how the beneficiary will be paid or otherwise remunerated for his work.

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. Accordingly, the appeal will be dismissed.



**ORDER:** The appeal is dismissed.