

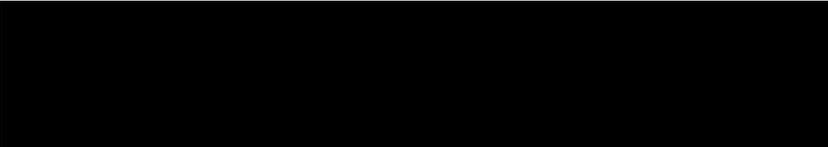
**PUBLIC COPY**

**Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**



**U.S. Citizenship  
and Immigration  
Services**

CI



FILE: LIN 03 044 50484 Office: NEBRASKA 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, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is church. 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 pastor. The director 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. The director further determined that the petitioner had not established that the beneficiary possessed the required two years membership in the denomination.

On appeal, the petitioner submits additional documentation. Counsel also indicated on the Form I-290B, Notice of Appeal to the Administrative Appeals Unit, and the accompanying cover letter, that a brief and/or additional evidence would be forwarded to the AAO within 30 days. As of the date of this decision, more than nine months after the appeal was filed, no further 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)(1), which echoes the statutory language, 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 25, 2002. Therefore, the petitioner must establish that the beneficiary was a member of the denomination and was continuously working as a pastor throughout the two-year period immediately preceding that date.

With the petition, the petitioner submitted a copy of an August 15, 2001 membership certificate, which licensed the beneficiary as a minister with the Association of Evangelical Gospel Assemblies (AEGA) Ministries International, Inc.

In a letter dated October 25, 2002, [REDACTED] of the petitioner church, stated that the beneficiary “has been an active Christian since 1978. He has been helping with Church planting in Ghana ever since he became a Christian.” He also stated, “In Ghana, [the beneficiary] was [a] teacher of the bible in Hosanna Ministries [REDACTED] Ghana branch).” The petitioner submitted a copy of a letter from the Hosanna Ministries, which states that the beneficiary “was the leader of our ‘church planting team’ in Ghana . . . He was a teacher of the bible and he is a person of high integrity.”

In a request for evidence (RFE) dated March 26, 2003, the director requested additional information to establish that the petitioner and the [REDACTED] were affiliated and evidence of the beneficiary’s prior pastoral experience. In response, the petitioner submitted a certificate from the AEGA Ministries International, Inc. recognizing the petitioner as an affiliated church. The certificate indicated that the charter was valid as of May 1, 2003 and expired on March 28, 2004. A letter from Reverend Tweneboah, dated April 21, 2003, indicated that the beneficiary “was first authorized to conduct religious worship and to perform the normal duties of a minister in 2001,” and that the beneficiary had been performing ministerial duties with the petitioner since September 30, 2001.

The director determined that the evidence did not establish that the beneficiary had been performing duties as a pastor throughout the full two years prior to the filing of the visa petition and that the beneficiary had not been a member of the denomination for the required two-year period prior to the date the petition was filed.

On appeal, the petitioner states that it misunderstood the director’s request as asking when the beneficiary first became authorized to perform duties as a minister in the United States. The petitioner states on appeal that the beneficiary was “first authorized to work with the denomination on (sic) June 1994 in Ghana, West Africa. As a

leader of our church planting term in Ghana, he performed so many religious duties including; organizing open-air crusade to preach the gospel to about 1000 audience on August 1996, he prayed for the sick and also was a bible teacher in the church in Ghana." The petitioner also submitted a copy of a May 1994 "Certificate of Completion," which certifies that the beneficiary completed the requirements for "church leadership;" a copy of a 1997 "Certificate of Stewardship" from the Legon Pentecostal Union, indicating that the beneficiary was recognized for his efforts as [REDACTED] during his studies at the [REDACTED] and another copy of the letter from the Hosanna Ministries.

The statute requires the alien to have worked for two years in the same religious occupation or vocation for which he or she seeks entry into the United States. The evidence submitted does not establish that the beneficiary worked as a pastor in his church in Ghana. The petitioner submitted no evidence that the beneficiary had been ordained or licensed as a minister, or otherwise authorized to perform the traditional functions of a minister prior to 2001. The petitioner has not established that the beneficiary meets the statutory two-year experience requirement.

On appeal, the petitioner also submits a copy of a church charter certificate from the AEGA Ministries International, Inc., valid from October 30, 2001 to March 28, 2003. The petitioner submits no evidence explaining the lapse of time between the certificates, and submits no evidence of the beneficiary's association with the AEGA Ministries at the time his ministerial license was granted in August 2001.

The petitioner submitted evidence that the beneficiary was a member of the [REDACTED] but submitted no evidence that the [REDACTED] was an affiliate of the [REDACTED]. Further, although the petitioner implies an affiliation between the petitioner and the [REDACTED] no direct evidence of such an affiliation appears in the record. 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 has not established that the beneficiary was a member of the denomination of the petitioning religious organization during the two years immediately preceding the filing of the visa petition.

Beyond the decision of the director, the petitioner has not established that it has the ability to compensate the beneficiary. The regulation at 8 C.F.R. § 204.5(g)(2) states, in pertinent part, that:

Any petition filed by or for an employment-based immigrant which requires an offer of employment must be accompanied by evidence that the prospective United States employer has the ability to pay the wage. The petitioner must demonstrate this ability at the time the priority date is established and continuing until the beneficiary obtains lawful permanent residence. Evidence of this ability shall be either in the form of annual reports, federal tax returns, or audited financial statements.

The petitioner states that, in return for the beneficiary's services, it would provide the beneficiary with food, accommodation, insurance, "and will remunerate him as usual for such a position." The petitioner does not

• LIN 03 044 50484

Page 5

state the amount of the remuneration and provided no evidence of its financial ability to support the beneficiary in any manner.

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.