



U.S. Citizenship
and Immigration
Services

C-1

[REDACTED]

FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date: **AUG 04 2004**

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Immigrant 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:

[REDACTED]

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

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

The petitioner is a 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, 8 U.S.C. § 1153(b)(4), to perform services as a minister. The director determined that the petitioner had not established that it qualifies for recognition as a tax-exempt religious organization.

8 C.F.R. § 204.5(m)(3)(i) requires the petitioner to submit evidence that the organization qualifies as a non-profit organization in the form of either:

(A) Documentation showing that it is exempt from taxation in accordance with section 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 section 501(c)(3) of the Internal Revenue Code of 1986 as it relates to religious organizations.

An entity that has no formal recognition of exemption from the Internal Revenue Service (IRS) cannot satisfy part (A) of the above regulation. To satisfy part (B), the entity must submit the documentation that the IRS would require in order to grant such recognition. Prior to the denial of the petition, the petitioner had conceded that it cannot satisfy part (A), but the petitioner contended that it automatically qualifies as a tax exempt religious organization because churches are not required to apply for recognition. This assertion does not relieve the petitioner of its evidentiary burden under part (B) of the above regulation. The petitioner need not actually *apply* for recognition, but the petitioner must produce the documentation that would be necessary to *support* such an application.

8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part, "[a]n 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 the I-290B appeal form, counsel discusses the dates of the beneficiary's claimed employment; the beneficiary's claimed duties; and the beneficiary's claimed compensation package. The appeal statement fails to address the one stated ground for denial, which is that the petitioner has failed to establish that it is recognized, or that it qualifies for recognition, as a religious organization exempt from federal income tax. Because counsel has failed to address the grounds for denial, we cannot find that the petitioner has submitted a substantive appeal.

Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the appeal must be summarily dismissed.

ORDER: The appeal is dismissed.