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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services



FILE: [Redacted]

Office: VERMONT SERVICE CENTER

Date: JUL 12 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:

SELF-REPRESENTED

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.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based 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 sustained and the petition will be approved.

The petitioner is the headquarters of a religious denomination. 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 the petitioner's associate director of Women's Ministries. The director determined that the petitioner had not established that the position constitutes a qualifying religious occupation.

On appeal, the petitioner argues that the director relied on too strict a standard.

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).

At issue in this proceeding is whether the petitioner seeks to employ the beneficiary in a qualifying occupation. The regulation at 8 C.F.R. § 204.5(m)(2) offers the following pertinent definitions:

Professional capacity means an activity in a religious vocation or occupation for which the minimum of a United States baccalaureate degree or a foreign equivalent degree is required.

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.

Religious vocation means a calling to religious life evidenced by the demonstration of commitment practiced in the religious denomination, such as the taking of vows. Examples of individuals with a religious vocation include, but are not limited to, nuns, monks, and religious brothers and sisters.

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 these proceedings. The statute is silent on what constitutes a "religious occupation" and the regulation at 8 C.F.R. § 204.5(m)(2) states only that it is an activity relating to a traditional religious function. The regulation does not define the term "traditional religious function" and instead provides a brief list of examples. The list reveals that not all employees of a religious organization are considered to be engaged in a religious occupation for the purpose of special immigrant classification. The regulation states that positions such as cantor, missionary, or religious instructor are examples of qualifying religious occupations. The regulation reflects that nonqualifying positions are those whose duties are primarily administrative or secular in nature.

Citizenship and Immigration Services therefore interprets the term "traditional religious function" to require a demonstration that the duties of the position are directly related to the religious creed 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.

associate general counsel for the petitioner, describes the beneficiary's work:

[The beneficiary] has been a church leader carrying on her religious vocation in the Seventh-day Adventist Church children's and women's ministries since 1996, planning curriculum and providing spiritual guidance and resources to women and children in the church, and designing and implementing programs to assist the public at large.

[The beneficiary] has been appointed by [the petitioner] to serve as [redacted]. . . [The beneficiary's] primary responsibilities are clearly religious in that she will be responsible to the corporate church body for administration of church policy as it relates to women's ministries in harmony with the beliefs of the [redacted]. She will serve as a consultant to assist the director in assessing and meeting the varied spiritual needs of women world wide. . . .

She will also serve as a member of the Executive and Administrative committees of the international headquarters of the Church as well as serve on standing and ad hoc committees. Annually, she will attend and participate in the committee meetings of subsidiary organizations of the Church throughout the world and present devotional messages at these meetings as well as give counsel related to these entities.

While [redacted] refers to the beneficiary's position as a "vocation," from the description offered it appears more akin to an occupation. There is no evidence of the beneficiary's permanent commitment, such as vows. The terms of the position appear to be a traditional employment setting (such as a monthly salary) rather than the unique circumstances of a member of, for instance, a religious order.

[redacted] the petitioner's associate director of Human Resources, states that the beneficiary began "in June 2001, to temporarily serve as the Associate Director of the Women's Ministries Department," and that the petitioner has now offered the same position to the beneficiary on a permanent basis. Jansen E.

Trotman, president of the [REDACTED] states that the beneficiary has been the director of Women's/Children's Ministries for that entity since 1996. The beneficiary has thus performed comparable duties throughout the two-year qualifying period immediately preceding the petition's filing date.

An official job description for the position of associate director of Women's Ministries incorporates a list of "essential job functions," including the following examples:

- Assists the director in assessing the varied needs of women from a world perspective.
- Provides leadership and promotion to assigned phases of the Women's Ministries program.
- Evaluates, monitors, and coordinates materials produced by the divisions for Women's Ministries, and facilitates their use in and between divisions.
- Assists the director in planning, organizing, and implementing the direction of Women's Ministries throughout the division.
- Accepts speaking appointments locally and overseas.
- Serves on the GC Women's Ministries Advisory.

The job description indicates that the job requires a "four-year college degree" and "experience in administration at higher levels of church organization," as well as "specialization within the area of the Women's Ministries" and "knowledge of church structure and organization." The beneficiary's four-year college degree is a Bachelor of Arts degree in English.

The director requested further information, and stated that the position appears to be "an administrative position" rather than "a traditional religious occupation." The director instructed the petitioner to submit documentation showing that the position requires, and that the beneficiary possesses, "specific religious training beyond that of a dedicated and caring member of the congregation or body." In response, Ms. Saveikis Burrow has responded by asserting "[t]he beneficiary is not a religious professional." The reasoning behind this claim is not clear, as the petitioner had already submitted a job description showing that the position requires a "four-year college degree."

[REDACTED] asserts that the beneficiary possesses skills and expertise beyond what would be expected in a volunteer from the congregation. [REDACTED] vice president of the petitioning organization, states "[t]here is no question that the carrying out of these responsibilities constitutes religious work." [REDACTED] quotes section FW10 of the petitioner's Working Policy, which states "[t]he primary purpose of the Department of Women's Ministries is to nurture, facilitate, and support women in their Christian lives as disciples of Jesus Christ and members of His world Church." The beneficiary's office also participates, with other branches, in "developing a global evangelistic strategy." [REDACTED] notes that the beneficiary is responsible for the preparation and dissemination of materials with unmistakably religious content, and that she regularly delivers sermons to various church groups.

The director denied the petition, stating "[m]erely performing tasks for a religious organization is insufficient to establish that the job qualifies as a religious occupation." On appeal [REDACTED] argues that the director relied on too strict a standard of what constitutes a religious occupation, and that the director "improperly rejected the totality of the petitioner's response in establishing the religious nature of the position."

Upon careful consideration, we concur with the petitioner that the director relied upon an unreasonable standard. The beneficiary's work for the petitioner clearly amounts to an occupation, as full-time work for the church's world headquarters, with a substantial salary; it is obviously not merely a part-time task delegated to an unpaid parish volunteer. The record also shows the religious nature of the work, with the beneficiary responsible for the content of religious materials, and the coordination of religious services at an international level. While it is true that the beneficiary's work does not involve Sunday worship services or other ceremonies within an actual church, there is nevertheless a pervasively religious element to the beneficiary's work. The beneficiary is not merely an administrator who could just as easily be working for a secular corporation, nor is she performing wholly secular duties, motivated by religious conviction. The beneficiary is a ranking official at the world headquarters of a major religious denomination with millions of adherents, and therefore there is no question but that the denomination recognizes her occupation. Her work, while it necessarily involves administrative and logistical concerns, is basically religious both in purpose and in execution, and fundamental to the operation of such a large denomination.

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 met that burden. Accordingly, the appeal will be sustained.

ORDER: The appeal is sustained. The petition is approved.