



U.S. Citizenship
and Immigration
Services

CA

[Redacted]

FILE: [Redacted] Office: NEBRASKA SERVICE CENTER Date: OCT 07 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

Robert P. Wiemann, Director
Administrative Appeals Office

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

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be 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 (the Act), 8 U.S.C. § 1153(b)(4), to perform services as a minister. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience as a minister immediately preceding the filing date of the petition.

On appeal, the petitioner submits new witness letters and argues that the director introduced requirements not found in the statute or regulations.

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 Revenue 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) 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." 8 C.F.R. § 204.5(m)(3)(ii)(A) requires the petitioner to demonstrate 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 December 23, 2002. Therefore, the petitioner must establish that the beneficiary was continuously performing the duties of a minister throughout the two years immediately prior to that date.

A joint letter from six officials of the petitioning church indicates that the beneficiary "has pursued the vocation of, and performed the duties of, a minister of the Church of Christ for the past 13 years." The officials indicate that they "would now like" to engage the beneficiary's services, but the letter does not indicate whether or not the

beneficiary had already begun working for the church. Statements regarding what the beneficiary's duties "would" involve are consistent with statements about the future, rather than about the past or present.

In a letter accompanying the petition [redacted] sub-director of Escuela Biblica de las Americas, states "[d]uring the last two years, [the beneficiary] has been a full student at Memphis School of Preaching, in Memphis, Tennessee; one of our schools of training for preachers. After these two years of training, the [petitioning church] is requiring [the beneficiary's] services as minister." The petitioner submits a copy of the beneficiary's diploma from the Memphis School of Preaching, awarded on June 23, 2002, six months before the petition's filing date.

The director requested additional evidence to establish the beneficiary's activities during the 2000-2002 qualifying period. In response, the petitioner has submitted additional joint letters from its leadership, which do not mention the beneficiary's work history. Another letter, from [redacted] of the Church of Christ Latin American Missions, indicates that the beneficiary "served as a teacher in the Bible School of the Americas in Panama City, Panama for over two years" before coming to the Memphis School of Preaching. This letter describes the beneficiary's activities prior to the two-year qualifying period. Furthermore, experience as a teacher at a Bible school is not qualifying experience in the vocation of a minister.

The director denied the petition, stating that the petitioner had not established that the beneficiary possessed the required experience. On appeal, the church's officials state "neither the statute nor the regulations stipulate an explicit requirement that the prior work experience must have been full time, or have been paid employment, or have been the sole occupation."

The petitioner is correct that such requirements do not explicitly appear in the statute or regulations, but they can be derived from case law, which, in turn, interprets the terms in the statute and regulations. The term "continuously" has been interpreted to mean that one did not take up any other occupation or vocation. *Matter of B*, 3 I&N Dec. 162 (CO 1948). The term "continuously" also is discussed in a 1980 decision where the Board of Immigration Appeals determined that a minister of religion was not continuously carrying on the vocation of minister when he was a full-time student who was devoting only nine hours a week to religious duties. *Matter of Varughese*, 17 I&N Dec. 399 (BIA 1980).

In this instance, the petitioner, prior to the denial of the petition, had never even clearly articulated the claim that the beneficiary worked as a minister throughout the qualifying period. Only on appeal does the petitioner offer this information. [redacted] elder of the Martin Church of Christ in Martin, Tennessee, states that the beneficiary "preached periodically for our congregation . . . in 2001 and 2002." "Periodic" work is not "continuous" as both the statute and regulations require. Travis L. Quertermous of the Pacific Church of Christ, Pacific, Missouri, states that the beneficiary "preached for us . . . on July 7, 2002. Prior to that time, we were honored to financially support him and his family while [the beneficiary] was a student at the Memphis School of Preaching." A single instance of preaching, as implied by the specific date, is even less probative than the assertion that the beneficiary "preached periodically" at the church in Martin.

[redacted] identified above, states in a new letter that the beneficiary worked "as a preacher . . . for several congregations of the Church of Christ between August 2000 and August 2002." Given that Mr. [redacted] is in Panama, it is not clear how he has verifiable, personal knowledge of the beneficiary's activities thousands of miles away in Tennessee and Missouri.

[redacted] minister of the Iglesia de Cristo in Memphis, states that he established a congregation "at the end of 1999," and that the beneficiary "strongly supported this work, teaching Bible lessons, preaching

on Sunday mornings, giving literature and encouraging all 'unto love and to good works.'" Once again, this assertion is vague and does not establish continuous work. The beneficiary's activities appear to fit the fact pattern in *Matter of Varughese*, i.e., part-time ministerial work by an individual whose primary efforts were devoted toward studying for the ministry.

Upon consideration, we affirm the director's finding that the petitioner has failed to establish the beneficiary's continuous (i.e., full-time and exclusive) work as a minister during the 2000-2002 qualifying period.

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.