



U.S. Citizenship  
and Immigration  
Services

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[Redacted]

FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: SEP 13 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

Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

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**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, California 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). The director denied the petition on September 18, 2003, after determining that the petitioner failed to establish that the beneficiary's position is considered a religious occupation. The director specifically noted that the term "special religious function" requires a demonstration that the duties of the position are directly related to the religious creed of the denomination, that specific religious training or theological education is required, 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.

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)(2) offers the following pertinent definitions:

*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, fundraisers, or persons solely involved in the solicitation of donations.

The regulation at 8 C.F.R. § 204.5(m)(1) states, in pertinent part, that:

All three types of 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.

On appeal, the petitioner states that the job description provided in the original submission was a "misunderstanding" and that the petitioner did not realize it would become the basis of the director's decision. The petitioner provides the following as the new job description for the beneficiary:

1. Educating and equipping ministers (equivalent to a job of a professor).
2. Serving as ordination council and preparing ministers for Ordination and Consecration
3. Performing baptismal services, communion services, marriage ceremonies, funeral services, preaching for congregations which have no ministers in place.

The half-page description of the beneficiary's job submitted on appeal is wholly different from the detailed description provided with the initial petition. The description provided with the initial submission was entitled "Detailed Job Description and Responsibilities for Christian Education Director" and was over one page in length. The petitioner has not submitted any evidence to show that the beneficiary has been performing the duties as stated in the position description submitted on appeal rather than the duties detailed in the original submission. 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). As such, we do not find the petitioner's new description of the beneficiary's duties to be credible but manufactured in a misguided attempt to satisfy the regulations.

We further note that while the petitioner asserts the beneficiary has been performing services such as baptisms, communions, marriages and funerals, there is no evidence that the beneficiary has been ordained. Clearly, without such evidence, the beneficiary cannot be considered a minister as defined in 8 C.F.R. § 204.5(m)(2).

Even were we to find the petitioner's new description of the beneficiary's position to be credible, the petitioner has failed to show that the beneficiary has been performing the work continuously for at least the two-year period immediately preceding the filing of the petition and that the position relates to a traditional religious function. As the petition was filed on November 4, 2002, the petitioner must establish that the beneficiary was continuously performing qualifying religious duties throughout the two years immediately prior to that date, and that the beneficiary seeks to enter the United States in order to perform those same duties. The record contains no evidence to establish that the beneficiary has been educating and equipping ministers, serving as ordination council and preparing ministers for Ordination and Consecration, or performing baptismal services, communion services, marriage ceremonies, or funeral services.

Moreover, there is no evidence that the beneficiary's position is a full-time paid occupation in the petitioning church or that the petitioner has ever employed a person in this capacity in the past. This set of facts is insufficient to establish that the proposed position is a traditional religious occupation of the petitioning church.

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.