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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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APR 15 2005

FILE: LIN 02 139 50308 Office: NEBRASKA SERVICE CENTER Date:

IN RE: Petitioner:
Beneficiary:



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

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner seeks classification 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 the existence of a qualifying job offer. In addition, the director determined that the petitioner had not established that he had the requisite two years of continuous membership in a recognized religious denomination.

On appeal, the petitioner asserts that denominations and specific job offers are unimportant within his personal understanding of his faith.

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)(4) states, in pertinent part:

Job offer. The letter from the authorized official of the religious organization in the United States must also state how the alien will be solely carrying on the vocation of a minister (including any terms of payment for services or other remuneration), or how the alien will be paid or remunerated if the alien will work in a professional religious capacity or in other religious work.

Other regulations indicate that the employment offer must involve a recognized religious organization. For instance, 8 C.F.R. § 204.5(m)(3)(i) requires evidence that the organization is, or qualifies to be, recognized as tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986 as it pertains to religious organizations.

The petitioner filed the petition on March 20, 2002. [REDACTED] human resources assistant at Stonecroft Conference Center (hereafter "Stonecroft"), Hollister, Missouri, states that the petitioner "was working with this ministry from March 17, 2000, until March 31, 2001." [REDACTED] director of Church Army in Branson, states that the beneficiary's "full-time employment began with Church Army on April 6, 2001."

On February 12, 2003, the director requested additional information about the job offer, such as documentation showing that Church Army possesses or qualifies for the required tax-exempt status. In response, the petitioner has submitted a letter from Capt. Scheuer, indicating that "Church Army in Branson employed [the petitioner] in a full-time capacity from April 6, 2001 through March 31, 2002." Thus, the petitioner's employment with Church Army ended less than two weeks after he filed the petition.

The beneficiary states "I was fired from Church Army at the end of March last year and have been waiting for your approval of my application for Immigrant status so as I can look for work in whatever place or ministry God has for me." He states "living a Christ-like life at both Stonecroft and Church Army was what got me fired from both those organizations," but he does not explain or elaborate except to say: "They, along with many other similar so-called ministries are operating outside the criteria laid down by God in His word." The petitioner then discusses, at length, his understanding of a religious life as discussed in the Bible, particularly in the New Testament. The petitioner contends that such service is not compatible with the regulations governing special immigrant religious workers. The petitioner mentions, but does not identify, "The church I am currently involved with." This may refer to Covenant Life Church in Branson. The petitioner submits a letter from the pastor of that church, but that individual does not indicate that the petitioner works for the church or that the church intends to employ him in the future.

It remains that the matter at hand is a petition for a secular benefit (an immigrant visa) and as a government agency, Citizenship and Immigration Services (CIS) must comply with federal regulations. There is no provision for the scriptures of any religion (or any individual's subjective interpretation thereof) to supersede those regulations. While the determination of an individual's status or duties within a religious organization is not under the purview of CIS, the determination as to the individual's qualifications to receive benefits under the immigration laws of the United States rests within CIS. Authority over the latter determination lies not with any ecclesiastical body but with the secular authorities of the United States. *Matter of Hall*, 18 I&N Dec. 203 (BIA 1982); *Matter of Rhee*, 16 I&N Dec. 607 (BIA 1978).

The director denied the petition, stating that, because the beneficiary's employment with Church Army has ended, "there is no job offer or terms of payment for services or other remuneration." The regulations require a specific, concrete job offer, rather than simply the alien's assertion that he intends to find work as a minister. On appeal, the petitioner submits a copy of his previous statement, as well as a new letter in which he asserts "I believe you and your staff received a memo from the top brass some time ago giving you directions to follow the letter of the law to the max, which effectively resulted in nobody having their applications approved. Then you received another letter rescinding that first one and giving you freedom to make decisions based on the 'spirit of the law' rather than 'the letter of the law.'" The petitioner does not identify or provide copies of these hypothetical "memo[s] from the top brass," nor does he cite any statistics to show that strict adherence to the regulations have ever "resulted in nobody having their applications approved" with regard to the special immigrant religious worker program.

CIS officials and adjudicators do not have discretion to disregard statutory and regulatory requirements. Rather, the function of those individuals is to implement and enforce the law. While we respect the petitioner's opinion that the Bible represents an authority greater than governmental statutes and regulations,

there are obvious constitutional barriers to applying those views to government actions and choosing any religion, or its scriptures, as enjoying special favor.

The petitioner describes his plans to develop his own ministry on a plot of land in Branson. Unrealized future plans of this sort simply cannot suffice to demonstrate that a qualifying job offer exists, with an employer with the demonstrated ability to support the petitioner as required by 8 C.F.R. §§ 204.5(g)(2) and (m)(4). Similarly, we cannot be satisfied with the petitioner's assurance that, upon approval of the petition, he will locate a suitable employer. The director acted correctly in denying the petition based on the lack of a valid job offer, and we affirm that decision.

The other issue on appeal concerns the beneficiary's membership in a recognized religious denomination. 8 C.F.R. § 204.5(m)(2) defines "religious denomination" as a religious group or community of believers having some form of ecclesiastical government, a creed or statement of faith, some form of worship, a formal or informal code of doctrine and discipline, religious services and ceremonies, established places of religious worship, religious congregations, or comparable indicia of a bona fide religious denomination. For the purposes of this definition, an inter-denominational religious organization which is exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986 will be treated as a religious denomination.

8 C.F.R. § 204.5(m)(3)(ii)(A) requires the petitioner to submit a letter from an authorized official of the employing religious organization in the United States which establishes that, immediately prior to the filing of the petition, the alien has the required two years of membership in the denomination.

The petitioner submits an excerpt from a letter, stating that the petitioner and his spouse "are long time members of the Assembly of God denomination. Both the Assemblies of God and the Stonecroft Ministries share similar beliefs in the protestant Christian faith." The excerpt submitted does not identify the author of the letter, who appears to be a Stonecroft official. Subsequent statements by the petitioner indicate that Church Army belongs to the Episcopalian denomination.

The director instructed the petitioner to provide further information regarding his denominational affiliation during the 2000-2002 qualifying period. In response, the petitioner states, "I have been a member of many different denominations over the years," including Baptist, Assemblies of God, Anglican and Presbyterian. The beneficiary concludes "I am not a denominational man. . . . I do not, as stated, believe in denominational differences when it comes to Christianity." In a separate letter, Charles Puckett, pastor of Covenant Life Church, Branson, states "I would stand beside [the petitioner] in his understanding that the Christian faith is very broad and crosses over the many denominational lines that define it. . . . I can confirm he has worked on a consistent basis, with . . . groups that express themselves to be 'Christian' . . . no matter the denominational preference. [This work should] meet your requirements for the need to serve in a continuous manner with a single denomination." It remains that the term "Christian" applies not to a single denomination, but to a broad range of denominations. The various Christian denominations share certain tenets, but marked doctrinal differences as well.

The director denied the petition, stating that the petitioner has failed to establish the required two years of denominational membership required in both the statute and the regulations. On appeal, the petitioner asserts that his time with Stonecroft, affiliated with the Assemblies of God, should suffice for denominational membership, and "Furthermore . . . I had also been a confirmed member of the Episcopal Church for the past thirty odd years." The petitioner acknowledges "this cuts across the INS's definition of staying within one certain denomination, but as I have stated, I am not one to follow denominations." Once again, while we

respect the petitioner's views, we are simply not at liberty to ignore the fact that his frequent changes of denomination disqualify him under the regulations, as well as under the plain wording of the law as written by Congress. We cannot defer to religious teachings or opinions when they conflict with the law. The petitioner does not contest the director's finding that the petitioner does not meet the denominational membership requirement, and we hereby affirm that finding.

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.