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MAR 10 2007

FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date:  
WAC 03 266 53086

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:



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 Director, California 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 is described as an evangelical Christian organization that trains ministers. 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 assistant to the president, events coordinator and minister-at-large. The director determined that the petitioner had not established that the position offered to the beneficiary qualifies as a religious occupation.

On appeal, the petitioner submits a brief from counsel and documentation of appearances by the beneficiary.

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).

In denying the petition, the director stated: "The evidence is insufficient to establish that the beneficiary has been performing full-time work as a Religious Occupation Worker for the two-year period immediately preceding the filing of the petition." This wording suggests that the deficiency lies in the duration of the beneficiary's work, but the director also acknowledged the petitioner's submission of the beneficiary's tax documents, showing that the beneficiary was indeed the petitioner's salaried employee throughout the period in question. Elsewhere in the decision, the director discussed the definition of "religious occupation," and noted that the beneficiary referred to herself as an "Admin. Assistant" on her tax returns. Taken together, these factors indicate that the director's concern was not the extent of the beneficiary's work, as such, but rather the nature of that work.

The regulation at 8 C.F.R. § 204.5(m)(2) defines "religious occupation" as 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. The regulation reflects that nonqualifying positions are those whose duties are primarily administrative or secular in nature.

president of the petitioning organization, states that the beneficiary has held the proffered position full-time since May 1, 2000. He provides the following description of the beneficiary's duties:

1. Assist the President and the Director of the Organization in a variety of activities as that pertains to facilitation and coordination of projects and events.

WEEKLY TIME SPENT                      6 HOURS

2. Assist the organization's leadership by serving as a member of the organization's ministry team, praying and counseling for the sick and hurting at all organization meetings.

WEEKLY TIME SPENT                      3 HOURS

3. Serve as a key member of the organization's leadership team involved in praying, planning, and coordinating organization programs.

WEEKLY TIME SPENT                      6 HOURS

4. Coordinating special events for the organization, calling workers together, overseeing planning and carrying out of the events.

WEEKLY TIME SPENT                      6 HOURS

5. Serves at churches, Christian ministries and conferences as directed by the President, training and teaching church ministers and other Christian leaders toward the goal of Christian unity, prayer, and transformation of communities.

WEEKLY TIME SPENT                      12 HOURS

6. Review and respond to all e-mails and regular mail addressed to the organization or to the Director on his behalf. Represent the organization in this correspondence, answering inquiries regarding the organization, and the Christian faith.

WEEKLY TIME SPENT                      2 HOURS

7. Perform internet and library research to assist the Director in the preparation of his conference speaking, as well as other organization matters. Also, assist in answering organization phones and typing when in the organization office. Prepare course manuals for conferences.

WEEKLY TIME SPENT                      5 HOURS

TOTAL WEEKLY TIME SPENT              40 HOURS

Mr. [REDACTED] asserts that the beneficiary's "job duties relate directly to the traditional religious functions of prayer and Bible instruction. [The beneficiary] teaches and leads seminars at Bible and prayer conferences as a part of her job duties. In addition, at the conferences she prays before, during, and after completion of the conference." Promotional fliers advertising YouthQuake '02 identify the beneficiary as a speaker. A biography submitted with the petition states that the beneficiary "assists in the front office, and serves as an event coordinator. [She] also travels as an evangelist-at-large."

An undated pamphlet identifies the petitioner's staff, including the beneficiary, stating that she "coordinates the many pastors' and leaders' city unity and prayer events hosted by [the petitioning entity]. [The beneficiary] represents the ministry as she speaks locally and nationally on revival and passion for God."

To establish the beneficiary's past work, the petitioner submits copies of tax documents showing that the petitioner was the beneficiary's sole source of income in 2000, 2001 and 2002. On her tax returns for the latter two years, the beneficiary identified her occupation as "Admin. Assistant." The "occupation" line is blank on the 2000 tax return.

The director denied the petition, having concluded that the beneficiary's duties were primarily administrative rather than religious in nature. Certainly, some of the beneficiary's duties appear to conform to standard administrative duties, which explains why the beneficiary called herself an administrative assistant on her tax returns. If these were the beneficiary's predominant duties, then her position falls outside the definition of a religious occupation. The regulatory definition specifically excludes "clerks," whose function is primarily administrative rather than religious. The record also, however, shows that the beneficiary has spoken at religious gatherings, which is clearly not the function of an office clerk. The question, therefore, is how much of the beneficiary's working time is devoted to non-qualifying administrative duties as opposed to qualifying activities such as leading prayer sessions and performing religious instruction.

On appeal, counsel rightly states that "job titles do not define the duties of a job position." "Administrative assistant," however, is not the beneficiary's job title. Her job title is "assistant to the president, events coordinator and minister-at-large." There can be no dispute that, on repeated occasions, when called upon to describe her occupation, she voluntarily chose the secular term "administrative assistant" rather than "minister-at-large" or some comparable religious term such as "religious instructor" or "evangelist." If an individual's *primary* functions include leading prayer groups, teaching religion classes, and speaking to church gatherings, it is, to say the least, far from clear why such an individual would more than once choose to describe such work as that of an "administrative assistant."

Counsel asserts that the beneficiary's "duties are described in the letter accompanying the [petition]." Still, it remains that this letter had an unavoidably self-serving purpose, to secure immigration benefits for the beneficiary. The way the petitioner described the beneficiary's duties could directly affect the outcome of the decision on the petition. The tax return has no such purpose; on that document, the beneficiary had no particular incentive to color her employment one way or another, because this would have no bearing on her tax burden. At the very least, we have no reason to believe that the beneficiary's contemporaneous description of her own work is less credible than the petitioner's cover letter. Those materials which mention the beneficiary, but which were not prepared for the specific purpose of supporting the petition, refer to the beneficiary first as a member of the office staff, and secondarily as an individual who speaks on behalf of the organization. The religious side of the beneficiary's work is stressed, for the most part, in documents prepared for the specific purpose of obtaining immigration benefits on her behalf.

The petitioner has supplemented the initial appeal with a brief and new exhibits. The petitioner has submitted some documentation indicating that the beneficiary speaks to religious gatherings, but only one specific instance during the two-year qualifying period has been documented - YouthQuake, in late June 2002. This event was in the petitioner's local area. The petitioner submits a registration form for a 2001 conference in Arizona, but the beneficiary's name appears nowhere on this document, and therefore it does nothing to resolve the nature of the beneficiary's duties.

A brochure submitted on appeal refers to the beneficiary's involvement at a conference in Duluth, Minnesota, in late February 2004, several weeks after the denial of the petition. Another brochure refers to a three-day church event in Cambridge, Minnesota, from March 25 to 27. No year is stated. Every other conference for which the record shows dates ended on a Saturday. March 27, the last day of the Cambridge event, fell on a Saturday in 2004. If the beneficiary has traveled to speaking engagements throughout the United States, as claimed, the earliest direct evidence of this travel dates from after the petition had been denied. While the record shows that the beneficiary has traveled in order to speak at various religious events, the record does not show that these activities have constituted a major part of her usual duties.

The petitioner submits documentation of the beneficiary's theology studies and, in 2002, ordination as a minister. There is no indication that the beneficiary has actually performed, or seeks to perform, the usual duties reserved for ordained clergy; counsel stipulates that the beneficiary's "work with [the petitioner] is not the work of an ordained minister." Ordination carries minimal weight when the person ordained is not actually working as a minister. *See Matter of Rhee*, 16 I&N Dec. 607, 610 (BIA 1978).

Upon consideration of the available evidence, we find that the beneficiary's religious duties, while not nonexistent, do not preponderate over her inherently secular office duties. Rather, her religious functions appear to be occasional and ancillary to her primary administrative functions as an administrative assistant and events coordinator.

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.