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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3042  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

C1

FILE:

WAC 99 224 52313

Office: CALIFORNIA SERVICE CENTER

Date: **MAY 26 2005**

IN RE:

Petitioner:

Beneficiary:

PETITION: 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.

*Maui Johnson*

S Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, initially approved the employment-based immigrant visa petition. On further review, the director determined that the petitioner was not eligible for the visa preference classification. Accordingly, the director properly served the petitioner with a Notice of Intent to Revoke the approval of the preference visa petition and his reasons therefore, and subsequently exercised his discretion to revoke the approval of the petition on March 22, 2004. The petition is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner 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 an Imam. The director determined that the petitioner had not established that the beneficiary had been engaged continuously in a qualifying religious vocation or occupation for two full years immediately preceding the filing of the petition.

Counsel timely filed a Form I-290B, Notice of Appeal to the Administrative Appeals Unit, on which she indicated that a brief and/or additional evidence would be submitted within 30 days of filing the appeal. As of the date of this decision, more than 13 months after the appeal was filed, no further documentation has been received by the AAO. Therefore, the record will be considered complete as presently constituted.

Section 205 of the Act, 8 U.S.C. § 1155, states that the Secretary of the Department of Homeland Security "may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under section 204."

Regarding the revocation on notice of an immigrant petition under section 205 of the Act, the Board of Immigration Appeals has stated:

In *Matter of Estime*, . . . this Board stated that a notice of intention to revoke a visa petition is properly issued for "good and sufficient cause" where the evidence of record at the time the notice is issued, if unexplained and un rebutted, would warrant a denial of the visa petition based upon the petitioner's failure to meet his burden of proof. The decision to revoke will be sustained where the evidence of record at the time the decision is rendered, including any evidence or explanation submitted by the petitioner in rebuttal to the notice of intention to revoke, would warrant such denial.

*Matter of Ho*, 19 I&N Dec. 582, 590 (BIA 1988)(citing *Matter of Estime*, 19 I&N 450 (BIA 1987)).

By itself, the director's realization that a petition was incorrectly approved is good and sufficient cause for the issuance of a notice of intent to revoke an immigrant petition. *Id.*

On appeal, counsel stated that the director failed to consider that the beneficiary received housing and medical services as part of his compensation, and that with that added value, the beneficiary's salary reflected full-time employment. Counsel further stated that the beneficiary was, in fact, employed for two years preceding the filing of the visa petition.

The record reflects that the director took notice of counsel's assertion that the beneficiary's receipt of room and board, together with the monetary compensation he received, reflected that he was compensated as a full-time

employee. The director determined that counsel had submitted no evidence to substantiate her assertions. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Counsel submitted no additional evidence on appeal, but merely claims, erroneously, that the director did not consider room and board.

The petition was filed on August 12, 1999. Therefore, the petitioner must establish that the beneficiary was continuously working as an Imam throughout the two-year period immediately preceding that date.

Counsel failed to address the director's determination that the evidence established that the beneficiary had worked, at most, only five months of the qualifying two-year period as an Imam. The director determined that the evidence established that, during the qualifying two-year period, the beneficiary worked with The Islamic Charitable Organization, responsible for religious activities and education, for 16 months, and as a volunteer mosque director/supervisor for the petitioner for three months.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part:

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

The petitioner has failed to identify specifically any erroneous conclusion of law or a statement of fact in this proceeding; therefore, the appeal must be summarily dismissed.

**ORDER:** The appeal is summarily dismissed.