



U.S. Citizenship
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FILE: WAC 03 264 53805 Office: CALIFORNIA SERVICE CENTER Date: **NOV 14 2006**

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:

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.

Mari Johnson

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 sustained and the petition will be approved.

The petitioner is the mother church of the Church of Scientology International. 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 member of the Sea Organization, a religious order of the Church of Scientology. The director determined that the petitioner had not established that the beneficiary's position qualifies as either a religious occupation or a religious vocation, or that the beneficiary had the requisite two years of continuous work experience immediately preceding the filing date of the petition.

First, we shall discuss the issue of whether the beneficiary seeks to work in a religious occupation or a religious vocation. The regulation at 8 C.F.R. § 204.5(m)(2) offers the following pertinent definitions:

Minister means an individual duly authorized by a recognized religious denomination to conduct religious worship and to perform other duties usually performed by authorized members of the clergy of that religion. In all cases, there must be a reasonable connection between the activities performed and the religious calling of the minister. The term does not include a lay preacher not authorized to perform such duties.

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, fund raisers, or persons solely involved in the solicitation of donations.

Religious vocation means a calling to religious life evidenced by the demonstration of commitment practiced in the religious denomination, such as the taking of vows. Examples of individuals with a religious vocation include, but are not limited to, nuns, monks, and religious brothers and sisters.

The regulation reflects that positions whose duties are primarily administrative or secular in nature do not qualify as religious occupations. Citizenship and Immigration Services therefore interprets the term "traditional religious function" to require a demonstration that the duties of the position are directly related to the religious creed of the denomination, 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.

In a letter dated September 16, 2003, [REDACTED], the petitioner's legal officer, describes the beneficiary's work:

[I]n May 1996, [the beneficiary] joined the Sea Organization and began her religious vocation at the Church of Scientology's religious retreat in Los Angeles, California. . . . [S]he was specially selected to do her religious work ensuring that the Spanish speaking parishioners receiving religious counselling and training on the religious scriptures at the Church's religious retreat could get rapidly through their religious services providing them with direction and assistance in their own language. . . .

[The petitioner] has staff qualifications requiring Sea Organization membership. . . .

Sea Organization members devote their lives to their religion; they live in community with other Sea Organization members and wear specific uniforms. Their meals, housing, clothes, medical and dental care are provided by the Church. Each member additionally receives a small weekly allowance, currently \$50.00 per week and occasional small bonuses.

The director concluded that the petitioner did not adequately describe the beneficiary's duties, and that the petitioner has failed "to show that the Sea Organization has a governing structure, a formal legal organizing instrument, set theological education standards, or operates with its own budget and assets." The director did not explain the source of these requirements. The director acknowledged the members' "life-long commitment to their faith," but determined that there is insufficient evidence to conclude that the Sea Organization is a religious order, whose members qualify as workers in a religious vocation.

The Church of Scientology has provided various documents and affidavits discussing the Sea Organization. Upon careful consideration of these materials, the AAO is satisfied that the Sea Organization qualifies as a religious order, and that its members practice a religious vocation. Because a discussion of specific duties is germane to religious occupations, but not religious vocations, we need not analyze the beneficiary's exact duties in any detail.

Having concluded that the Sea Organization is a religious order, we must now determine whether or not the beneficiary has been a full member of that order since at least two years prior to the petition's September 22, 2003 filing date, as required by section 101(a)(27)(C)(iii) of the Act, 8 U.S.C. § 1101(a)(27)(C)(iii), and 8 C.F.R. §§ 204.5(m)(1) and (3)(ii)(A).

The record contains copies of several certificates, including a "Sea Organization Contract of Employment," which reads, in part, "I contract myself to the Sea Organization for the next billion years," signed by the beneficiary and dated July 3, 1996. This does not fully agree with Ms. [REDACTED] assertion that the beneficiary joined the Sea Org in May 1996. The contract contains a section for signatures to show that the "Swearing In Ceremony" has taken place; this section is blank. Another discrepancy arises with regard to the certificate from the beneficiary's "Intro to Scientology Ethics Course." The certificate is dated "5/4/98," but the document has a 1999 copyright date and therefore did not exist in 1998.

On September 20, 2003, the director informed the petitioner of the above discrepancies and instructed the petitioner to "clarify" these issues, and to submit further evidence of the beneficiary's work history during the qualifying period.

In response, the petitioner has submitted copies of Form W-2 Wage and Tax Statements, showing that the petitioner paid the beneficiary \$1,638.81 in 2001 and \$3,314.68 in 2002. Regarding the Sea Org contract and the training certificate, Ms. [REDACTED] states:

[The beneficiary] did sign her Sea Organization Contract of Employment in May 1996. However, at that time she was a certified teacher in Argentina and had to give notice to the authorities of the school where she was employed so they could find a replacement. Once a replacement was found, she began her religious vocation in July 1996, working full time as a Sea Organization member. . . .

The original certificate was lost in Argentina and a duplicate certificate was prepared with the same information contained on the original form. The signatures for the Swearing In Ceremony were not available. . . .

When [the beneficiary] completed her *Introduction to Scientology Ethics* Course in 1998, her certificate was not issued at that time. In 1999 she requested that she be given the certificate and at that point it was verified that [the beneficiary] had completed the course and the Certificate was prepared.

The director, in denying the petition, observed that the Sea Org "Contract of Employment" is not a decisive instrument of membership in the Sea Org, and that "[t]he petitioner submitted no documentary evidence to show that the beneficiary is in fact a full member" of the Sea Organization. The director also found that the petitioner's explanations regarding the above documentary discrepancies were not persuasive.

On appeal, the petitioner submits materials concerning the various steps required to join the Sea Organization, such as completion of the Estates Project Force (EPF) and review by a Fitness Board. From materials made available to us, we have concluded that an individual who has successfully passed review by the Fitness Board can be considered a member of the Sea Organization (as opposed to a recruit, who is not a full member). Therefore, the petitioner can establish that the beneficiary possesses the relevant experience by submitting church records showing that the beneficiary passed the Fitness Board at least two years before September 22, 2003 and continuously engaged in the vocation during that time.

In a supplement to the appeal, the petitioner submits copies of church documents, including a document indicating that the beneficiary passed the Fitness Board on August 22, 1996, the same day she completed "Product Zero." This indicates that the petitioner was a full member of the Sea Organization for more than seven years prior to the petitioner's September 2003 filing date. The document also states "Issued at: Los Angeles, CA, on September 22, 2005." This demonstrates that the petitioner does, on occasion, reconstruct such certificates based on information in church records. The director cites no contradictory evidence that would cast doubt on the information shown on these certificates.

We acknowledge the director's concern about the apparent anachronisms in the certificates, but we find the petitioner's explanation to be credible in the context of the materials submitted. We further note that the

regulations provide for situations in which the director has serious reservations about the authenticity or reliability of a copy of a document. 8 C.F.R. § 103(b)(5) gives the director the discretion to request the *original* documents when copies are disputed. By signing the Form I-360 petition, the petitioner has agreed, under penalty of perjury, to provide any information that the director deems necessary for the adjudication of the petition. If a given petitioner refuses to provide original documents that are material to the proceeding, then the director can deny the petition pursuant to 8 C.F.R. §§ 103.2(b)(5) and (14). We note that 8 C.F.R. § 103.2(b)(5) requires that, if a petitioner does not provide original documents to substantiate a previously submitted copy, the petition shall be denied; there shall be no appeal; and the petition cannot be reopened at a later date based on the subsequent availability of the requested original. That same regulation also requires the director to return the requested original documents after the petition has been adjudicated; the director shall not be permitted to retain the original records indefinitely. The director, in this proceeding, did not exercise this regulatory prerogative.

Pursuant to the above discussion, the petitioner has overcome the stated grounds for denial. Upon review of the record, we see no readily apparent obstacle to the approval of the petition. 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 sustained that burden. Accordingly, the decision of the director denying the petition will be withdrawn and the petition will be approved.

ORDER: The appeal is sustained and the petition is approved.