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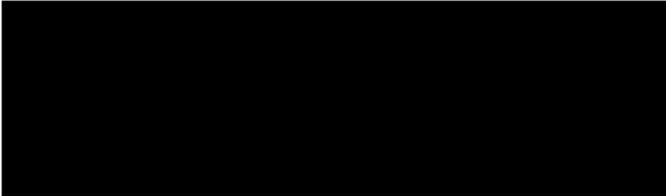
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **AUG 03 2007**
WAC 06 146 52251

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:
[REDACTED]

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.

Maura Deadrick
for Robert P. Wiemann, Chief
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 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), to perform services as a development outreach religious worker. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience in the position immediately preceding the filing date of the petition.

On appeal, the petitioner submits explanatory letters.

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)(1) indicates that the “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.” 8 C.F.R. § 204.5(m)(3)(ii)(A) requires the petitioner to demonstrate that, immediately prior to the filing of the petition, the alien has the required two years of experience in the religious vocation, professional religious work, or other religious work. The petition was filed on April 10, 2006. Therefore, the petitioner must establish that the beneficiary was continuously performing the duties of a development outreach religious worker throughout the two years immediately prior to that date.

In a letter accompanying the initial filing of the petition, Kuo-Hui Liu, the petitioner's Leadership Team Chairman, described the beneficiary's experience:

After graduating from Singapore Bible College in 1999, [the beneficiary] continued his study at Christian Witness Theological Seminary in Concord, California and graduated with a Master of Christian Ministry in May 2002. He remained in the Seminary to serve after graduation. His ministries included preaching, leading Bible Study, personal evangelism, visitations, leading prayer meetings and evangelism teams, organizing and teaching Sunday School, leading Worship Services, and spreading the vision and importance of theological education. [The beneficiary] joined the pastoral team at the Petitioner in January 2006.

Documents in the record confirm the beneficiary's seminary training. Regarding the beneficiary's work for the petitioner [REDACTED] also stated: "As a religious minister, [the beneficiary] will conduct religious worship services and perform other pastoral duties" such as "Administer sacraments of Baptism and Holy Communion."

The petitioner's initial submission also includes a copy of a Certificate of Ordination that Christian Witness Fellowship issued to the beneficiary on November 25, 2005. The ordination gave the beneficiary "the authority to assume the Office of PASTOR in the Christian Churches, and to perform all ecclesiastical and missionary duties belonging to the said office."

[REDACTED] of Sembawang Baptist Church in Singapore stated that the beneficiary "was the Church Planting Pastor at Johor, Malaysia, sent and supported by our Church from June 1996 to May 1998." [REDACTED] indicated that this work entailed "full-time ministry." Other witness letters describe the beneficiary's participation in internships for several years thereafter.

On June 15, 2006, the director issued a request for evidence, instructing the petitioner to submit, among other things, additional information about the beneficiary's work history and his intended position at the petitioning church. In response, [REDACTED] asserted that the beneficiary's position, "which is a pastoral position," "includes both *traditional* pastoral/ministerial religious functions (such as preaching . . . [and] administering the Holy Communion, Baptism and other Sacraments . . .) and *non-traditional* functions (such as planning and implementing development projects . . .)." [REDACTED] listed four "[m]inimum qualifications for this position," including a seminary degree, but ordination is not among the qualifications listed. A separate work schedule indicates that the beneficiary is expected to administer sacraments only "in the absence of the Senior Pastor."

[REDACTED], President of Christian Witness Theological Seminary, asserted that the beneficiary worked there as a Development Outreach Religious Worker from June 2002 through December 2005. In that capacity, the beneficiary's duties are said to have included "preach[ing] and teach[ing] the Bible in Sunday Worship."

The director denied the petition on September 29, 2006, stating that the beneficiary's position with the petitioner is "pastoral" in nature, and noting that the beneficiary was ordained on November 27, 2005, less than five months before the petition was filed. The director concluded that the beneficiary worked in a religious occupation for Christian Witness Theological Seminary in 2004 and 2005, but in the vocation of a minister for the petitioner in 2006. Therefore, the director found that the beneficiary lacks the required two years of experience in the position sought.

On appeal, [REDACTED] attributes the director's decision to "insufficient understanding of the terms" used throughout the proceeding, and asserts: "The type of work for both the Seminary and the Church is entirely the same in nature: preaching and teaching the Bible, leading religious worship, visitation, officiating the Holy Sacraments, sharing the gospel, outreach and development, and so on." [REDACTED]

[REDACTED] now President of America Chinese Evangelical Seminary in Sunnyvale, California, asserts that the beneficiary's current work with the petitioner "is a continuation of the religious work he has been doing in the Seminary. It is of the same nature." [REDACTED] asserts that the beneficiary's 2005 ordination was "an honor . . . recognizing his competence and experience," but that nevertheless the beneficiary is still "doing the same work that he has been doing."

Upon consideration, we find the petitioner's arguments on appeal to be, on the whole, credible and consistent with the record. There does not appear to have been any wholesale revision of the beneficiary's past or present job descriptions, which would betray an attempt to bring those two descriptions into accord with one another after the fact. The beneficiary's ordination does not appear to have changed dramatically the nature of his daily duties. Rather, it appears that the beneficiary now possesses an additional credential that allows him to assume a broader range of ancillary functions while leaving his core duties intact. Generally, the "pastoral" duties he performs for the petitioner resemble those he previously performed for the seminary before his formal ordination.

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 met 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.