U.S. Department of Homeland Security
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Washington, DC 20529

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U.S. Citizenship and Immigration Services

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PUBLIC COPY

[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: AUG 03 2007

EAC 05 051 50308

IN RE: Petitioner: [redacted]
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.

for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont 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 a regional office of the Church of God, an Evangelical Pentecostal Christian denomination. 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 the Senior Pastor of Eden Evangelical Church of God, Lynn, Massachusetts. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience as a pastor immediately preceding the filing date of the petition.

On appeal, the petitioner submits additional letters and evidence.

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 December 11, 2004. Therefore, the petitioner must establish that the beneficiary was continuously performing the duties of a pastor throughout the two years immediately prior to that date.

On the Form I-360 petition, the petitioner indicated that the beneficiary entered the United States on September 6, 2002 as a B-2 nonimmigrant visitor, and therefore was in the United States throughout the entire two-year qualifying period.

In a letter accompanying the initial filing, the petitioner's Administrative Bishop, listed the beneficiary's specific employers in the Dominican Republic from 1982 to 2002, and stated: "From 2002 to this present date, [the beneficiary] continues as a minister is [*sic*] good standing with the Church of God." added that the beneficiary's "continued education includes the University of Automa of Santo Domingo where he earned a Doctorate in Medicine."

Documents accompanying the initial submission establish the beneficiary's ministerial work from 1982 to 2002, but they do not show any ministerial work during the December 2002-December 2004 qualifying period or identify any site where such work may have taken place. (The documents also show that the beneficiary pursued medical training as a gynecologist as late as 2001, but the beneficiary states that he abandoned his medical career when he arrived in the United States, and the record contains no evidence to cast doubt on that claim.)

The director issued a request for evidence on April 22, 2005, instructing the petitioner to submit a "detailed listing of the beneficiary's duties, the commencement and termination dates of employment, and the time spent per week by the beneficiary performing those duties" during the 2002-2004 qualifying period.

In response, wrote a new letter addressing, among other things, the beneficiary's prior employment history. As in the first letter, identified specific employers up until 2002, after which time stated only that the beneficiary "continues as a minister is [*sic*] good standing with the Church of God." The language appears to be copied directly from earlier letter; both letters include the same typographical error ("is good standing" in place of "in good standing").

The petitioner submitted letters from the beneficiary's siblings in the United States, who stated that they have provided financial support to the beneficiary. Lynn resident stated that the beneficiary "and his family are currently living on my property . . . at no cost to them."

The director denied the petition on January 26, 2006, stating that the petitioner has failed to establish that the beneficiary performed the required continuous qualifying religious work during the December 2002-December 2004 qualifying period. The director based this finding on various factors, including the petitioner's failure to identify any church where the beneficiary worked during the relevant period; the beneficiary's reliance on financial support from family members and friends; and the absence of any evidence to show that the church paid the beneficiary any salary during that period.

On appeal, states:

> From September 6, 2002 to September 26, 2003 [the beneficiary] served as Assistant Pastor of the Church of God located at 2135 Third Avenue, Bronx New York.

> From September 26, 2003 to September 28, 2004 he was named the Pastor of the Church of God at 231 East Main Street in Amsterdam New York.

identifies no employer after September 2004. In a separate letter, the beneficiary claims to have worked in New York City from September 2002 to September 28, 2003; in Amsterdam, New York from September 28, 2003 to October 28, 2004; and in Lynn, Massachusetts from October 28, 2004 onward. These dates conflict somewhat with the dates provided by

The petitioner submits copies of letters and documents from the two New York churches, dated during the qualifying period, attesting to the beneficiary's work at those locations. The available evidence places the beneficiary at those churches, but the evidence is too fragmentary to permit a conclusion that the beneficiary served continuously and exclusively at those churches. Compounding this uncertainty are credibility questions that necessarily arise from contradictory claims. In a new statement, dated February 24, 2006, the beneficiary states: "Since September 2002 I have done God's will without receiving any money in exchange." This claim appears to conflict with a document submitted on appeal which reads, in part:

> MEETING WITH OFFICIALS
> FEBRUARY 10, 2003
>
> * * * * *
>
> It was . . . suggested a new position be opened – Assistant Pastor. Various candidates were named and it was unanimously voted for [the beneficiary]. Also, we approved the budget of $20 thousand dollars for salary and expenses.

The reference to "salary and expenses" conflicts with the beneficiary's assertion that he worked "without receiving any money in exchange."[1] This significant discrepancy necessarily diminishes the credibility of unsupported, after-the-fact statements regarding the beneficiary's work. Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence

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[1] An earlier petition, receipt number EAC 03 038 52172, contains numerous contradictory assertions regarding the beneficiary's pay at the Church of God of Third Avenue. In a letter dated November 10, 2002, Bishop and Senior Pastor of that church, stated that the beneficiary "has performed these services on a voluntary basis," but that in the future the beneficiary "will receive $350.00 per week as compensation."

On July 24, 2003, the church's Administrative Secretary, stated "at the present time we have no employee with salary. . . . All of our workers are volunteers." In November 2003, contradicted , stating that the church began paying the beneficiary "$350 per week" beginning "from November 2002." Accompanying this letter are copies of two $300 check stubs, dated October 23, 2003 and November 12, 2003 respectively, each marked with the beneficiary's name and the phrase "Mision Amsterdan [*sic*]." A legend on the October check stub identifies the payor as the petitioning regional office.

offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Id.* at 582, 591-92. We can conclude that the beneficiary was likely involved with the church on Third Avenue, but there is no credible basis to conclude that this activity was continuous in a legally qualifying sense.

The appellate submission contains only the most sparse and fragmentary evidence, such as a business card and a bank deposit slip, relating to the beneficiary's most recent claimed employment in Lynn, Massachusetts. This document is not particularly strong evidence of continuous work as a minister. Because the beneficiary and his claimed employers cannot even agree on such basic questions as whether or not he received any compensation, the materials offered on appeal cannot satisfy the petitioner's burden of proof. We affirm the director's finding that the petitioner has failed to submit sufficient evidence to establish that the beneficiary worked continuously and solely as a minister throughout the two-year qualifying period.

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.