

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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



U.S. Citizenship
and Immigration
Services

C1

PUBLIC COPY



FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: MAY 09 2007
WAC 06 047 50299

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:

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.

Maura Deadnick
fr 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 dismissed.

The petitioner is a church of the Seventh-day Adventist 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 a Bible worker. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience as a Bible worker immediately preceding the filing date of the petition.

On appeal, the petitioner asserts that the beneficiary worked continuously as required.

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 12, 2005. Therefore, the petitioner must establish that the beneficiary was continuously performing the duties of a Bible worker 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 1, 2005 as a B-2 nonimmigrant visitor for pleasure. The petitioner also answered "No" when asked, on the form, whether the beneficiary had ever worked in the United States without permission. Because B-2 status does not include employment authorization, the petitioner effectively indicated that the beneficiary had not worked for any United States employer.

In a letter accompanying the initial filing, Senior Pastor [REDACTED] discussed the beneficiary's past work in the Philippines and the compensation that the beneficiary "will receive" from the petitioning church. Pastor [REDACTED] did not state that the beneficiary has performed qualifying religious work since he arrived in the United States.

In a letter dated November 2, 2005, [REDACTED] o, President of [REDACTED] in Baguio, the Philippines, stated that the beneficiary "is an ordained minister" who "started to work in our denomination in 1987 up to the present." The beneficiary left the Philippines two months before the date of this letter. Mr. [REDACTED] did not even mention the beneficiary's relocation to the United States, much less provide any information about the beneficiary's work after he left the Philippines.

On April 16, 2006, the director requested "evidence of the beneficiary's work history beginning December 12, 2003 and ending December 11, 2005 only." In response, Pastor [REDACTED] listed every position the beneficiary held between 1987 and 2005. The last position listed was at the [REDACTED]. Pastor [REDACTED] stated that "a previous communication" from "the head of the church organization . . . in the Philippines" deals with "the period from December 12, 2003 to September, 2005." Once again, [REDACTED] could have listed employment that the beneficiary undertook after September 2005, but did not do so, despite specific instructions to that effect.

The director denied the petition on July 17, 2006, having concluded that the petitioner had not shown that the beneficiary worked between his September 1, 2005 entry into the United States and the December 12, 2005 filing date.

On appeal, Pastor [REDACTED] states:

[The beneficiary] arrived in the United States on September 1, 2005. At that time, he was employed with the [REDACTED] of Seventh-day Adventists in the Philippines and worked full time for the church in the Philippines by visiting Filipino-American friends from California, Texas, New York and Florida who have ties to the church in the Northern Philippines by appealing for their financial support to help complete the building projects of Baguio City Seventh-day Adventist Church and High School. He did this work from September 1, 2005 to October 16, 2005. On October 17, 2005, he started working full time for [the petitioning] Church in the position for which this petition was made. His full time work for [the petitioning] Church covers the period from October 17, 2005 to December 11, 2005.

The petitioner, on appeal, does not submit any documentary evidence to support the new claim that the beneficiary continued to work on behalf of [REDACTED] after his arrival in the United States. The petitioner claims that the beneficiary traveled across the United States for the mission, but there is no documentary record of such travel. The petitioner states that the beneficiary visited numerous churches, but the petitioner does not even identify the churches, much less provide supporting evidence or statements from those churches.

The petitioner had two prior opportunities (the initial filing and the response to the request for evidence) to discuss and document the beneficiary's activities in the United States, but the petitioner did not do so on either of those occasions. The petitioner's unsupported claims on appeal are not sufficient to meet the petitioner's burden of proof. *See Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

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.