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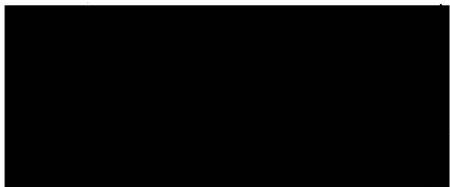
V.S. Department of Homeland Security
20 Mass. Ave., N.W., RID. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:



Office: TEXAS SERVICE CENTER Date: **NOV 20 2006**

INRE:

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 IOI(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 officethat originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in cursive script that reads "Mari Johnson".

2 Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Texas 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 operates a mosque and religious school. 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 an imam. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience as an imam immediately preceding the filing date of the petition.

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)(I) 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 August 22, 2005. Therefore, the petitioner must establish that the beneficiary was continuously performing the duties of an imam throughout the two years immediately prior to that date. In this instance, the qualifying period began shortly before the beneficiary reached the age of nineteen.

Hafiz Muhammad Iqbal, President/Imam of the petitioning mosque, states that the petitioner "has now offered a permanent position of Minister-Religious Worker to" the beneficiary. Mr. Iqbal states: "the beneficiary [has

been] associated with [the petitioning mosque] since, [the] beginning of 2003 and providing services for teaching the Quranic classes to young students and leading the prayers as Second Imam."

..... of Masjidul Mumineen, Houston, Texas, states that the beneficiary "lead [sic] the Salat taraweeh prayer in Masjidul Mumineen during the Month of Ramadan 2004." [REDACTED] President of the Islamic Society of Greater Houston, states that the beneficiary "lead [sic] the Salatut Taraweeh in the Main Center of Islamic Society of Greater Houston (ISGH) in Ramadan 1425 (2003)."

While Ramadan has great religious significance for Muslims, Ramadan is only, one month in the Islamic calendar. The beneficiary's activities during one month out of each year cannot meet the two-year continuous experience requirement. The petitioner's initial submission contains no other evidence that the beneficiary engaged in qualifying religious work during the 2003-2005 qualifying period.

The director issued a request for evidence, instructing the petitioner to "[s]ubmit a detailed description of the beneficiary's prior work experience" throughout the two-year qualifying period, including duties, compensation, and locations. In response, the petitioner has submitted an unsigned letter that reads, in part: '

On arrival in USA i.e. in 1997, the beneficiary joined [the petitioning entity] as a student and started memorizing the Holy Qur'an and learnt teaching of Holy Prophet Mohammad (Peace and Blessings of Allah be upon him).

In the year of November 1998, he graduated from [the petitioner's religious school] -for completion of Memorization of Holy Quran and basic teaching of Islam.

Since the year of 2000, he [has been] leading the prayers in different Mosques in Houston, specially in the holy month of Ramadhan, where he recites] the complete Holy Qur'an in this holy month. . For [these] services, he received certificates/prizes from different Islamic Organizations. . . .

The beneficiary started teaching to students of [the petitioning entity] since [the] beginning of [the] year 2003. In addition to teaching the students, he also leads] the prayers as second Imam.

The beneficiary could not get his paychecks due to non-availability of work permit. Even then, he gladly served this Organization for the benefit of his students. [The petitioner] and his parents are taking care of his needs/necessities. . He is still living with his parents. . . .

Presently, he is teaching 35 to 40 students and his weekly working hours are 40 to 45 hours.

The documentary evidence accompanying this letter, such as copies of utility bills and the beneficiary's May 2003 high school diploma, does not relate to or corroborate the petitioner's claims about the beneficiary's experience as an imam.

The director denied the petition, stating: "the evidence submitted is insufficient to establish that the beneficiary had been continuously engaged in a qualifying religious vocation or occupation for the two-year period immediately preceding the filing date of the petition."

On appeal, the petitioner repeats previous claims about the beneficiary's experience. The petitioner does not, however, provide any new evidence or explain the absence thereof. The petitioner asserts that the beneficiary "received many Awards/Certificates," but lists only **two** of them (both included in the original petition). These certificates attest only to the beneficiary's work during Ramadan; they do not state or imply that the beneficiary worked year-round as a full-time imam.

We conclude that the petitioner has not overcome the director's finding that the petitioner has not adequately established the beneficiary's continuous experience throughout the two-year qualifying period.

Review of the record **shows** that the cited ground for denial is not the only evidentiary deficiency. An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (B.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see also Dar v. INS*, 891 F.2d 997, 1002 n. 9 (2d Cir. 1989) (noting that the AAO reviews appeals on a *de novo* basis).

8 C.F.R. § 204.5(m)(3)(ii) and its subsections require the petitioner to demonstrate that the beneficiary is qualified for the position offered. Obviously, the petitioner cannot meet this requirement without also showing what the minimum requirements are for a given position.

The director instructed the petitioner to list the minimum requirements to become an imam, and demonstrate that the beneficiary had met those requirements. The director did not state the minimum requirements to become an imam. We acknowledge the certificates that show that the beneficiary memorized the Quran at age 14. The petitioner contends that this act "is a Miracle from God. There are very **few** people who can achieve this quality." Nevertheless, the petitioner has not shown that this memorization is, by itself, sufficient qualification to serve as an imam, or that the training of an imam typically commences at so young an age. The petitioner has not established the minimum requirements for employment as an imam, or that the beneficiary had already met those requirements by age eighteen when he is said to have begun that work. This finding amounts to an independent and alternative basis for denial beyond the decision of the director, which we also uphold in this decision.

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.