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

U.S. Citizenship and Immigration Services

C-1

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: JUL 13 2004

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.

Elizabeth O'Brien
for Robert P. Wiemann, Director
Administrative Appeals Office

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

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DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

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, 8 U.S.C. § 1153(b)(4), to perform services as pastor of Garden Grove Middle Eastern Baptist Church (GGMEBC). The director determined that the petitioner had not established that the beneficiary qualifies as a "minister" as the regulations define that term.

On appeal, the petitioner submits a statement from the pastor of the petitioning church.

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 . . . 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)(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.

[redacted] identified as overseer of the Middle Eastern Southern Baptist Churches for the California Southern Baptist Convention, states:

> [The beneficiary] is an ordain[ed] Minister in good standing. [The beneficiary] is working [as] a full time pastor from the period of time, which began 02/28/99 and is continuing at the present time.
>
> [The beneficiary's] responsibilities include preaching, teaching God's Word, establishing new congregation [sic], doing pastoral counseling, conducting conventions and conferences.
>
> [The beneficiary] administers all the sacraments of the church including baptism, communion, performing weddings and funerals.

Rev. Khalil Hanna's signature appears on the beneficiary's February 28, 1999 certificate of ordination.

Regarding the beneficiary's past training, the petitioner submits documentation showing that the beneficiary received a bachelor's degree in mechanical engineering in 1990. There is no comparable documentation to show that the beneficiary holds any degree in divinity or theology. director of Jerusalem Bible College in Orange, California, states that the beneficiary "is continuing his studies to obtain a higher degree in theology." describes the beneficiary as a "student," but also refers to the beneficiary with the title "Rev."

The director requested additional information and evidence regarding the beneficiary's duties, training, and means of support. In response, the petitioner has submitted numerous documents and letters. A brochure from the petitioning church identifies only four staff members. The beneficiary's name does not appear in the list of staff members, nor anywhere else in the brochure. The pastor is identified as The brochure also fails to identify as a member of the church staff. asserts that GGMEBC "is the mission church" of the petitioning church, but the petitioner's 2000 and 2001 Annual Reports, contained in the record, do not mention GGMEBC or any of its staff, even in their detailed mission reports and audited financial statements.[1]

The petitioner submits weekly breakdowns of the beneficiary's work, most of which are identical to one another (even including the same misspelling of "Wednesday") except for the dates listed. A typical breakdown includes the following activities:

Participating in the morning service ministry (preaching, teaching, leading worship).
Counseling with church members.
Home and hospital visitation to the people who are in need.
Office work (reviewing the ministry file).
Receiving & answering church members' phone calls and mail.
Preparation for the home Bible study.
Preparing the youth service Bible study.
Mission program studies for expanding especially in the places where there is no Christian presence.
Homeless ministry.
[Friday evenings:] Leading worship, preaching, teaching for youth meeting Bible study.
Preparing for the Sunday service.
Home Bible study.

The only weeks for which the breakdowns deviate significantly from the above list are weeks when the beneficiary attended conferences. The documents indicate that the beneficiary led worship and prayer meetings at some of these conferences, but the record contains nothing from the conference organizers to confirm this claim.

The petitioner had earlier asserted that the beneficiary "performs weddings and funerals." Although the dated weekly breakdowns purportedly account for every hour that the beneficiary has worked since August 2000,

[1] These discrepancies are not merely of trivial concern. In 1999, another Special Immigrant Religious Worker petition was filed on the beneficiary's behalf, supposedly by a Baptist church in Irvine, California. The director contacted the church at that address. In response, the pastor stated "[t]his church does not have any record [of the beneficiary], and has not filed any petition for [him]." This information led to the denial of the petition. No appeal was submitted, and no explanation or rebuttal has ever been offered. The initial petition also contains the assertion that the beneficiary is to be "employed . . . as an ordained minister in the Southern Baptist Church of Garden Grove, CA."

we can find no mention of any weddings or funerals in those documents, although the petitioner's annual reports mention several deaths and weddings within the congregation.

The director denied the petition, stating that the petitioner has not shown that the beneficiary meets the regulatory definition of a minister. The director noted that the record contains no evidence of any theological training prior to the beneficiary's 1999 ordination. The Board of Immigration Appeals has held that ordination that was not based on theological training does not conclusively establish eligibility for classification as a special immigrant minister. *See Matter of Rhee*, 16 I&N Dec. 607, 610 (BIA 1978). On appeal, asserts that the beneficiary "has earned a solid education in theology" and "has been ordained based on his adequate theological training and education," but he does not specify the nature or extent of that training and education. There is no documentation from any seminary or similar institution showing that the beneficiary studied divinity or theology prior to his ordination. Furthermore, the petitioner submits nothing from the Southern Baptist Convention to demonstrate that the denomination requires no such education or training for ordination. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. See *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

Further, while the determination of an individual's status or duties within a religious organization is not under the purview of Citizenship and Immigration Services (CIS), the determination as to the individual's qualifications to receive benefits under the immigration laws of the United States rests within CIS. Authority over the latter determination lies not with any ecclesiastical body but with the secular authorities of the United States. *Matter of Hall*, 18 I&N, Dec. 203 (BIA 1982); *Matter of Rhee*, *supra*.

statement on appeal contains no mention of GGMEBC, and instead seems to imply that the beneficiary preaches at the petitioning church itself rather than at any offshoot "mission church." The appeal statement consists largely of uncorroborated claims. The record contains no contemporaneous evidence at all regarding GGMEBC to show that the church even existed in 2000-2002, let alone to prove that it is a mission church operated by the petitioner. The petitioner has claimed that the beneficiary has officiated at weddings and funerals, but submitted no evidence, although records would presumably have been maintained. Given that a previous petition filed on this beneficiary's behalf was denied on credibility grounds, and given the inconsistencies in the present petition, the lack of independent documentation is of particular concern. Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. 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. *Matter of Ho*, 19 I&N Dec. 582, 586 (BIA 1988).

The petitioner has not credibly established that the beneficiary has and will continue to carry on the vocation of a minister at GGMEBC, performing all the functions of authorized clergy within the denomination. We therefore affirm the director's finding of ineligibility.

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.