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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: BALTIMORE Date: OCT 04 2004

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: 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.

Mari Johnson

for Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, initially approved the employment-based immigrant visa petition. On further review following an interview with the beneficiary, the Interim District Director, Citizenship and Immigration Services (CIS), Baltimore, Maryland, determined that the petitioner was not eligible for the visa preference classification. Accordingly, the director served the petitioner with notice of intent to revoke the approval of the preference visa petition and his reasons therefore, and subsequently revoked the approval of the petition on January 14, 2004. The petition is now before the Administrative Appeals Office (AAO) on appeal. The decision of the director will be withdrawn and the petition will be remanded to the Vermont Service Center for further action and consideration.

The self-petitioner seeks classification 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 special religious coordinator and educator. The director determined that the petitioner had not established that the organization for which she worked is qualified as a bona fide nonprofit religious organization or that she has been employed as a religious worker since her visa approval.

The regulation at 8 C.F.R. § 205.2(a) states:

> Any Service officer authorized to approve a petition under section 204 of the Act may revoke the approval of that petition upon notice to the petitioner on any ground other than those specified in § 205.1 when the necessity for the revocation comes to the attention of this Service.

Mr. then Acting Executive Associate Commissioner for Office of Programs, issued a memorandum on February 27, 1997, in which he stated:

> Since the implementation of the Immigration Act of 1990, all employment-based petitions have been adjudicated at the service centers ... therefore, all petitions which are believed by field offices to have been incorrectly approved are to be returned to the approving center along with a memorandum of explanation. The center will then either initiate revocation proceedings, or reaffirm the petition and return it to the field office along with a memorandum of explanation for the reaffirmation.

We withdraw the interim district director's determination and remand the matter to the Vermont Service Center for proper disposition pursuant to the regulation and Mr. memorandum.

On remand, the Director, Vermont Service Center, should address whether the petitioner has established that she received, and has been working under, a valid job offer. We note that the Very Reverend pastor of Our Lady of China Pastoral Missions, indicates that the petitioner is paid as a contractor. Self-employment is not qualifying employment for purpose of this visa preference classification.

This matter will be remanded. The service center director may request any additional evidence deemed warranted and should allow the petitioner, within a reasonable period of time, to submit additional evidence in support of her position. As always in these proceedings, the burden of proof rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The decision of the interim district director, CIS, is withdrawn. The petition is remanded to the Director, Vermont Service Center, for further action in accordance with the foregoing and entry of a new decision, which, if adverse to the petitioner, is to be certified to the AAO for review.