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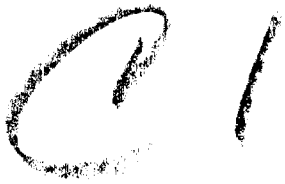
Washington, DC 20529

U.S. Citizenship and Immigration Services



[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: FEB 28 2005
WAC 03 093 51244

IN RE: Petitioner: [redacted]
Beneficiary

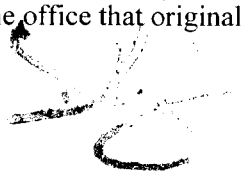
PETITION: Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

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.



Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) 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 (the Act), 8 U.S.C. § 1153(b)(4), to perform services as a deacon. The director determined that the petitioner had not established that the position qualified as that of a religious worker.

On appeal, counsel submits a brief and additional documentation.

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 alien must be coming to the United States at the request of the religious organization to work in a religious occupation. 8 C.F.R. § 204.5(m)(1). To establish eligibility for special immigrant classification, the petitioner must establish that the specific position that it is offering qualifies as a religious occupation as defined in these proceedings.

The position offered by the petitioner is that of a deacon. According to the petitioner, the beneficiary, as "permanent" deacon, would "assist our pastor at baptisms, marriages and funerals [sic] services, visitations of the elderly and sick members, and parish correspondence and records. In addition, she will continue to teach the doctrine of our church in the parish Sunday school program." The petitioner stated that the beneficiary has been a full-time deacon since June 2000.

On appeal, counsel asserts that the position of deacon "has been recognized [as] an essential position since the Early Christian era." Nonetheless, the petitioner must establish that the position of deacon is traditionally a permanent, full-time, salaried position within its particular denomination. Counsel submits copies of documents that he states is the Constitution of the Presbytery, as adopted by the Korean Presbyterian Church in America (KPAC). However, the documentation submitted does not indicate, in English, its source and appears to be excerpts from more than one document. As noted above, counsel's unsupported statements do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. at 534; *Matter Of Laureano*, 19 I&N Dec. 1; *Matter of Ramirez-Sanchez*, 17 I&N Dec. at 506.

Further, this documentation appears to contradict counsel's assertions in his response to the RFE. Specifically, Article 41 on pages 378 and 380, states:

> Installation of [redacted] are chosen by the congregational meeting of the local church and installed by the local church. Elders must receive officers training after election for 6 months or more under the direction of session and pass the ordination examination of the Presbytery. Deacons and kweonsas, after officers training for 3 months or more under the direction of session, are examined by session before installation. However, the office of kweonsa is not [an] ordained position.

The language implies that the position of deacon is an ordained position. However, as noted, the document's source has not been established and the document does not constitute competent evidence.

The evidence of record does not establish that the proffered position is a traditional, full-time, salaried position within the petitioner's denomination, or that the position is recognized and defined by the petitioner's governing body.

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.