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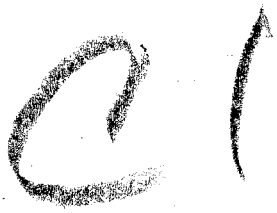
U.S. Citizenship and Immigration Services



FILE: [redacted] Office: VERMONT SERVICE CENTER Date: JAN 2 6 2005
EAC 97 115 53894

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, Vermont Service Center. The Administrative Appeals Office (AAO) dismissed a subsequent appeal and also dismissed a subsequent motion to reconsider. The matter is now before the AAO on a second motion to reopen and reconsider. The motion will be dismissed.

A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Citizenship and Immigration Services (CIS) policy. 8 C.F.R. § 103.5(a)(3). A motion to reopen must state the new facts to be provided and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2).

On motion, the petitioner stated it was submitting the following evidence: documentation that the petitioner was a bona fide nonprofit religious organization, proof that the petitioner is a qualified institution for training ministers, proof of the petitioner's ability to pay the beneficiary the proffered wage, proof that the beneficiary has been engaged continuously in the religious vocation for two full years and proof of the beneficiary's "new wages and remuneration."

As evidence, the petitioner submitted the following: copies of certificates issued to its president to establish his qualifications as an instructor, a copy of a 1994 "ministerial license" issued by the petitioner to the beneficiary, a transcript of training for the beneficiary which covers the period September 1996 to September 1999 and a course syllabus for the fall 1996 and fall/spring 1999 academic periods. The petitioner also submitted a letter signed by the petitioner's president "affirming" the beneficiary's employment with the church and outlining his qualifications and duties, a work schedule, a "remuneration statement" for the beneficiary, and a statement signed by its executive treasure "verifying" the petitioner's income for 1999, 2000 and 2001.

We note that relevant documentation submitted by the petitioner on motion, while at times presented in a slightly different format, contains no new facts than that previously submitted by the petitioner. We also note that in its previous decision, the AAO determined that the petitioner had provided sufficient evidence of its status as a bona fide nonprofit tax-exempt organization.

As the petitioner failed to present new facts supported by documentary evidence in its motion to reopen, or to cite any precedent decisions in support of its motion to reconsider and does not argue that the previous decisions were based on an incorrect application of law or CIS policy, the petitioner's motion will be dismissed.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden. 8 C.F.R. § 103.5(a)(4) states that "[a] motion that does not meet applicable requirements shall be dismissed." Accordingly, the motion will be dismissed, the proceedings will not be reopened, and the previous decisions of the director and the AAO will not be disturbed.

ORDER: The motion is dismissed.