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

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U.S. Citizenship and Immigration Services

PUBLIC COPY

[redacted]

JAN 26 2005

FILE: EAC 02 146 53930 Office: VERMONT SERVICE CENTER Date:

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:

[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.

for

Robert P. Wiemann, Director
Administrative Appeals Office

broadcasters. This group does not include janitors, maintenance workers, clerks, fund raisers, or persons solely involved in the solicitation of donations.

Citizenship and Immigration Services interprets the term "traditional religious function" to require a demonstration that the duties of the position are directly related to the religious creed of the denomination, that the position is defined and recognized by the governing body of the denomination, and that the position is traditionally a permanent, full-time, salaried occupation within the denomination.

Bishop [redacted] general superintendent of the petitioning entity, states:

> In the last two years [the beneficiary] and his family have been serving [the petitioner] as missionaries in charge of our African missions. In particular, [the beneficiary] has also served as assistant to Bishop [redacted] here in Brooklyn.
>
> [The beneficiary's] position in the ministry now as assistant to Bishop [redacted] requires that he and his family get permanent resident permit[s] as special immigrant religious workers. [The beneficiary] was ordain[ed] into priesthood in September 1988 and respectively has his first and second degrees from both Northern California Bible College and Word to the World College Greenwoodvillage Colorado [sic]."

Bishop [redacted] 1999 job offer letter, addressed to the beneficiary, states "[y]our duty includes assisting the Bishop in any ministerial assignment as He may deem you fit to function or represent him and also to often go on missions to Africa supervising and directing the mission activities in there." The letter states that the beneficiary has been appointed "assistant Bishop and Presiding Bishop for the Mission work in Africa."

In a later submission, Bishop [redacted] indicated that the beneficiary's job title is "Administrative assistant to the Bishop," involving the following duties:

> helping to carry out any administrative assignment as may be deemed fit by the Bishop to assign to him, especially on matters as regarding to local and foreign missions. This position is a full time [job]; he spends eight hours every day on [the] job. This responsibility also includes: answering phone calls, attending to the needs of missionaries overseas, replying [to correspondence] from local churches and individual missionaries in the field, traveling overseas on missions and delivering sermons during the midweek and Sunday services. . . .
>
> This position requires religious, theological and professional training for any one to fit into it effectively. It is not a position a devoted lay member of the church can occupy. It is [a] strictly reserved position [for] qualified trained clergy with experience in missions. . . .
>
> [T]hese are the main duties and weekly hours required of his office:
>
> Monday-Friday 8.00am-4.00pm
> Counseling, administrative assistance to the presiding Bishop, attending to the needs of missionaries, both locally and overseas. And traveling to assist in missions. (40 hours a week)
>
> Sunday 10am-2pm

> Delivering sermon in different services and offering prayers to the members of the congregation who may need spiritual help and assistance. (16 hours a week)

We note that work performed from 10:00 a.m. to 2:00 p.m. one day a week occupies only four hours per week, not sixteen.

The director denied the petition, stating that the petitioner has not established that the beneficiary is fully qualified as an administrative assistant to the bishop. On appeal, counsel argues that the director failed to give sufficient consideration to the statements of "the Bishop, who is the Chief of the clergy within any given diocese or jurisdiction." Counsel also states that the director incorrectly "stated that the position was that of an *Administrative Assistant* . . . the record clearly establishes that the beneficiary was an *Assistant Bishop*, not an *Administrative Assistant*." Counsel asserts that the title of "Assistant Bishop" "makes it clear that this is a position which would only be performed by someone with religious, theological and professional training." Counsel contends that the duties of the position are consistent with the usual duties of ordained clergy.

Counsel's explanation fails to take into account Bishop [redacted] own assertion that the beneficiary's "Job Title [is] Administrative assistant to the Bishop." The job description used the phrase "administrative assistance," and included such plainly "administrative assignment[s]" as answering telephones and handling correspondence. The beneficiary's other principal duty is "attending to the needs of missionaries," with no clarification as to the nature of the needs or how the beneficiary is expected to attend to them. If "attending to the needs of missionaries" involves support functions such as obtaining supplies and making travel arrangements, those duties are much more closely aligned to those of an administrative assistant than to those of an ordained minister. Because Bishop Williams himself used the term "administrative assistant," it is simply not true that "the record clearly establishes that the beneficiary was . . . not an *Administrative Assistant*." This demonstrably untrue claim by counsel necessarily colors the reliability of counsel's other assertions.

At best, the petitioner has provided widely divergent descriptions of the position offered, varying not only in job title, but also in basic duties. These discrepancies serve only to raise questions of credibility. Without a consistent, well-documented job description, it is impossible to conclude that the petitioner has put forth a qualifying job offer. The claim that the beneficiary works sixteen hours a week during a four-hour period from 10:00 a.m. to 2:00 p.m. also raises questions regarding the accuracy and reliability of the petitioner's assertions regarding the beneficiary's duties.

Given the inconsistent descriptions of the beneficiary's duties, including plainly administrative (and therefore secular) functions, the petitioner has not demonstrated that the beneficiary's primary duties constitute a religious occupation. Adding weekly sermons to an otherwise secular, administrative job cannot suffice to qualify the position as a religious occupation, or to show that the beneficiary is, and will be, solely engaged in the vocation of a minister. The petitioner's assertion that it will only employ a minister in the position does not guarantee eligibility; otherwise, an accommodating employer could simply hire ministers for a range of non-ministerial positions, and thereby circumvent immigration procedures that normally apply to aliens in those secular jobs.

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.