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

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: SEP 0 8 2004
WAC 03 198 54473

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Petition for Special Immigrant Pursuant to Section 101(a)(27)(K) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(27)(K)

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.

Mari Johnson

for Robert P. Wiemann, Director
Administrative Appeals Office

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

The petitioner is a native and citizen of the Philippines who is seeking classification as a special immigrant pursuant to section 101(a)(27)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(27)(K) as an immigrant who has served honorably on active duty in the Armed Forces of the United States.

The director denied the petition, in part, finding that the petitioner failed to establish that he is a member or veteran of the United States Armed Forces.

On appeal, the petitioner states the reason for his appeal as follows: "the decision rendered by the INS is contrary to my intention and belief, under the Universal Declaration of Human Rights." He further states that the director's determination that the petitioner is not a "combat armed services [member] or veteran . . . is misleading."

Section 101(a)(27)(K) of the Act provides, in pertinent part, that the term "special immigrant" means –

An immigrant who has served honorably on active duty in the Armed Forces of the United States after October 15, 1978, and after original lawful enlistment outside the United States (under a treaty or agreement in effect on the date of the enactment of this subparagraph) for a period or periods aggregating—

> (i) 12 years and who, if separated from such service, was never separated except under honorable conditions, or
>
> (ii) 6 years, in the case of an immigrant who is on active duty at the time of seeking special immigrant status under this subparagraph and who has reenlisted to incur a total active duty service obligation of at least 12 years, and the spouse or child of any such immigrant if accompanying or following to join the immigrant, but only if the executive department under which the immigrant serves or served recommends the granting of special immigrant status to the immigrant.

The petitioner indicated that he had worked at the United States Naval Base, Subic Bay, for several years in the Public Works Center "supervising warehouse and furnishings in support to military personnel." He submitted a copy of a Notification of Personnel Action dated December 17, 1988, with his petition. The Notification of Personnel Action indicates that the petitioner worked as a housing services assistant in the family housing department of the family housing facilities management division at the United States Navy Public Works Center in Subic Bay. He submitted additional evidence showing that he had worked at the Furniture Warehouse Housing Office, Public Works Center, Subic Bay as a warehouseman.

Section 101(a)(27)(K) requires the petitioner to establish that he has honorably served in active duty of the United States Armed Services. The petitioner has not established that he has ever served in active duty with the United States Armed Services.

In review, the evidence is insufficient to establish that the petitioner is eligible for the immigrant visa classification.

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 met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.