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U.S. Citizenship
and Immigration
Services

CI

FEB 22 2005

FILE:

WAC 03 256 53902

Office: CALIFORNIA SERVICE CENTER

Date:

IN RE:

Petitioner:
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:

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

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office on appeal. The appeal will be sustained and the petition will be approved.

The petitioner is the West Coast office of a national organization of churches. 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 religious coordinator at the petitioner's Shoreline, Washington church. The director determined that the petitioner had not established that the position offered to the beneficiary constitutes a qualifying religious occupation.

On appeal, the petitioner argues that the position is inherently religious in nature.

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 sole issue in the director's decision is whether the petitioner seeks to employ the beneficiary in a qualifying occupation. The regulation at 8 C.F.R. § 204.5(m)(2) offers the following pertinent definitions:

Minister means an individual duly authorized by a recognized religious denomination to conduct religious worship and to perform other duties usually performed by authorized members of the clergy of that religion. In all cases, there must be a reasonable connection between the activities performed and the religious calling of the minister. The term does not include a lay preacher not authorized to perform such duties.

Religious occupation means an activity which relates to a traditional religious function. Examples of individuals in religious occupations include, but are not limited to, liturgical workers, religious instructors, religious counselors, cantors, catechists, workers in religious hospitals or religious health care facilities, missionaries, religious translators, or religious

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.

Rev. Stephen Hosea, chairman of the petitioning office, describes the beneficiary's duties and work history:

[The beneficiary] has been a pastor of our Seattle Church since December 2000. . . . [The beneficiary] received his master of Divinity Degree in 1991 in Singapore.

We are very satisfied with his service and wish to offer [the beneficiary] a permanent full-time position as a Religious Coordinator at our . . . Church in Shoreline, Washington. As a Religious Coordinator, his duties and responsibilities will be:

- Coordinating and managing outreach programs of the church in Indonesian language including programs promoting spiritual growth, youth fellowship, home visitation.
- Preparing and organizing Bible study and Sunday school.
- Promoting church's education in particular children's Sunday school.
- Administrating and correspondence for the Indonesian congregation.
- Encouraging members for supports and participation by organizing religious events and activities.
- Developing plans and regular schedules to offer counseling with spiritual guidance.

(Sic.) The petitioner submits a copy of the Mission & Synod Bylaws of Evangelical Mission & Seminary International, Inc., the petitioner's parent organization. Article IV of these bylaws states "[t]he Church officers consist of Senior Pastor, Pastor, Minister, and Deacons." The bylaws do not mention the title of "religious coordinator," but there appears to be a similarity between the beneficiary's job description and the duties of a "minister." Chapter 1-F of this article states a minister's "tasks and duties are to help the Pastor lead the Church ministry such as evangelism, teaching, prayer service, visitation, etc." While a "pastor" must be ordained, the bylaws contain no comparable requirement for a "minister" as the bylaws use that term. (At the same time, however, we note that the petitioner repeatedly refers to the beneficiary as a "pastor.")

Pastors and ministers receive full financial support during a renewable one- or two-year "term of employment," while deacons perform "voluntary work" and, generally, "a deacon can not serve for more than two consecutive years." Article VIII, Chapter 3 of the bylaws indicates that "the local Church has the obligation to support his living cost with a sufficient remuneration," and that "[a] full time pastor or a minister is not allowed to work outside the Church."

The director instructed the petitioner to submit further information about the beneficiary's experience and duties. In response, the petitioner submits copies of financial and tax documents, showing that the beneficiary has received a salary and a parsonage allowance for his work. The beneficiary's receipt of a salary demonstrates that he has not been merely a volunteer deacon.

██████████ asserts that the position requires “a bachelor’s degree in religion related study, such as divinity or ministry. The Religious Coordinator is similar to a traditional pastor without being ordain[ed]. ██████████ describes the beneficiary as an “assistant pastor” who “is not ordain[ed].”

The director denied the petition, stating, “[t]he duties of the position described by the petitioner appear to be primarily administrative in nature rather than a traditional religious function.” The director also offered remarks about “religious training,” although the petitioner had indicated that the position requires – and the beneficiary possesses – a bachelor’s degree in a field closely related to religion.

On appeal, Rev. ██████████

Our church has a need of a Religious Coordinator and this position is really that of a first line lieutenant to that of a senior pastor. Another church may call this person an assistant pastor, however, in our church, we have chosen the name of religious coordinator. In our previous letter . . . , we have listed the duties of a religious coordinator. . . .

Please note that these are functions . . . of an assistant pastor. Because our board has chosen to call an assistant pastor that of a religious coordinator, this is the root of our problem. . . .

A function of a religious coordinator is purely religious to coordinate the church’s duties in such a way that our parishioners would have the religious experience as our church wish[es] for them to have.

The religious coordinator is not a secular administrator. A secular administrator would be one to oversee the function of the employees of the church or the donation of our parishioners. This is not the function of our religious coordinator. . . . The purpose of a religious coordinator is to coordinate the religious direction of the church so that each and every member of our church would have the proper religious experience that we can try our best to put together. While the head pastor is already in charge of the duties of sermon and working with the board, the religious coordinator, i.e. assistant pastor, has to perform the function[s] that the pastor is without time to perform, such [as] teaching and preaching.

Upon review of the full record of proceeding, we are persuaded that the beneficiary’s work represents a paid occupation that relates to a traditional religious function. The beneficiary is not a volunteer, a fund-raiser, or an administrative/clerical worker. The director, in denying the petition, voiced no fully coherent basis for the finding that the beneficiary’s duties are administrative rather than religious, and several passages in the decision appear to be dicta or stock language with no demonstrated relevance to the matter at hand. Absent evidence that would tend to undermine the petitioner’s credibility, we find that the petitioner has adequately demonstrated the beneficiary’s eligibility for the benefit sought.

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 met that burden and overcome the only stated ground for denial. Accordingly, the appeal will be sustained.

ORDER: The appeal is sustained. The petition is approved.