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U.S. Citizenship
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Services

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JUN 20 2007

FILE: WAC 06 025 51831 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:

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.

Maura Deadrick

for Robert P. Wiemann, Chief
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 a Christian church of the Assemblies of God denomination. 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 co-pastor. The director determined that the petitioner had not established that the beneficiary's position qualifies as a religious occupation.

On appeal, the petitioner submits a letter from its senior pastor and copies of various documents.

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 is whether the petitioner seeks to employ the beneficiary in a qualifying occupation. The regulation at 8 C.F.R. § 204.5(m)(2) defines "religious occupation" as 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.

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 regulation reflects that nonqualifying positions are those whose duties are primarily administrative or secular in nature.

Citizenship and Immigration Services therefore 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.

In an introductory letter, [REDACTED] Senior Pastor of the petitioning church, stated that the beneficiary is qualified to perform the duties of a co-pastor, specifically:

- Christian Education Instructor
- Spiritual Counseling
- Treasury Department
- Church Administration
- Preaching the Word of God

In a separate letter, [REDACTED], who repeatedly used the title “Rev.” in reference to the beneficiary, stated that the beneficiary’s “experience qualifies her for the following duties:”

1. Project any activity to help others
2. Evangelism
3. Bible Education

The petitioner’s initial submission included a translated copy of the beneficiary’s Certificate of Ordination as a “*Pastor Auxiliar*,” issued by the Christian Family Center Church in 1998 and signed by two officials of that church, including [REDACTED].¹ In an accompanying letter, [REDACTED] stated that the beneficiary had served that church as a “*Pastor auxiliar*” for roughly six years. [REDACTED] described the beneficiary’s duties as “visiting the people at their homes, providing counseling, [and] opening small groups of prayer among the families.”

Copies of pay receipts and tax documents indicate that the petitioner has consistently paid the beneficiary \$750 twice a month in 2003 and 2004 (with small gaps in pay consistent with short, unpaid vacations).

On March 21, 2006, the director requested further details about the beneficiary’s position, as well as “evidence to show that the beneficiary has been ordained and the requirements for ordination,” or “other evidence that the individual has authorization to conduct religious worship and perform other services usually performed by members of the clergy.” In response, [REDACTED] asserted that the beneficiary “volunteered as a Bible Teacher from August 12 to December 30, 2002,” but that the beneficiary’s current “[l]evel of responsibility is that of a Pastor.”

¹ It is not clear what relationship, if any, exists between [REDACTED] and [REDACTED]

The director denied the petition on July 6, 2006, stating: "The petitioner has not established that the position of Bible teacher is a traditional, permanent, salaried position" within the petitioner's denomination. The relevance of this observation is questionable, as the petitioner does not claim that the beneficiary will work as a Bible Teacher, or has worked in that capacity since December 2002.

The director also found that the petitioner had failed to establish that the proffered position "is recognized as a religious occupation related to a traditional function in this denomination." On appeal, [REDACTED] asserts that the beneficiary "is in fact a Religious Instructor, is a Counselor and a Catechist," all of which are listed at 8 C.F.R. § 204.5(m)(2) as examples of religious occupations. [REDACTED] also refers to the beneficiary as an "evangelist," and asserts that the beneficiary supervises "bible study groups" which, in turn, are common within "[a]ll denominations of Christian Churches."

The petitioner's reference on appeal to Bible study groups is consistent with [REDACTED]'s prior assertions. The petitioner is also correct in observing that religious instruction is a qualifying religious occupation relating to a traditional religious function, provided that it is performed on a full-time, compensated basis. The beneficiary's documented compensation, while not especially lucrative, is consistent with full-time employment.

While the petitioner originally referred to the beneficiary with the title "Rev.," submitted an ordination certificate for her, and the beneficiary's title includes the word "pastor," the available evidence does not indicate that the beneficiary qualifies as a minister who performs the duties of clergy. We note that Article Four, Section 1B of the petitioner's bylaws refers to "serving on the Pastoral Staff . . . in a non-ministerial role." This shows that the petitioning church recognizes that some roles are "pastoral" without being "ministerial." Such seems to be the case with the beneficiary's position. The beneficiary's overall training and experience has more in common with lay workers than with fully authorized clergy.

Upon consideration of the evidence presented, we find that the petitioner has submitted sufficient evidence to establish that the beneficiary is employed full-time in a religious occupation relating to a traditional religious function. We therefore withdraw the director's finding to the contrary.

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. Accordingly, the decision of the director denying the petition will be withdrawn and the petition will be approved.

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