

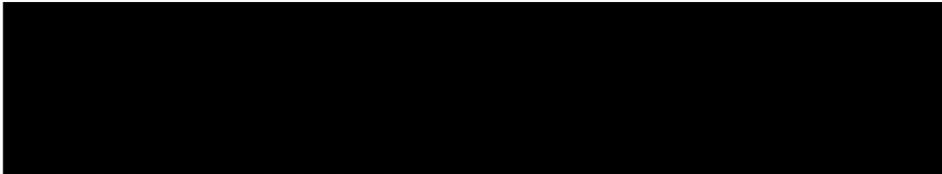
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services



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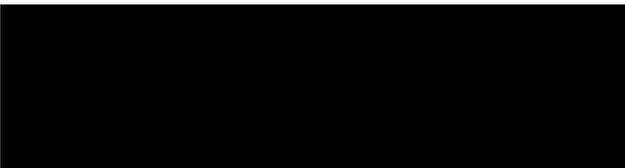
FEB 25 2011

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Petitioner: [redacted]
Beneficiary: [redacted]

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

Perry Rhew
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 ministry that focuses its efforts on people with disabilities. 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 project manager of national-international ministries. The director determined that the petitioner had not established that the intended position qualifies as a religious occupation.

On appeal, the petitioner submits witness letters and documentation relating to the beneficiary's duties.

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 September 30, 2012, 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 September 30, 2012, 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 U.S. Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 204.5(m)(5) defines "religious occupation" as an occupation that meets all of the following requirements:

(A) The duties must primarily relate to a traditional religious function and be recognized as a religious occupation within the denomination.

(B) The duties must be primarily related to, and must clearly involve, inculcating or carrying out the religious creed and beliefs of the denomination.

(C) The duties do not include positions that are primarily administrative or support such as janitors, maintenance workers, clerical employees, fund raisers, persons solely involved in the solicitation of donations, or similar positions, although limited administrative duties that are only incidental to religious functions are permissible.

(D) Religious study or training for religious work does not constitute a religious occupation, but a religious worker may pursue study or training incident to status.

The petitioner filed the Form I-360 petition on November 21, 2008. In a letter accompanying the initial submission, Billy Burnett, the petitioner's vice president of administration and finance, described the beneficiary's position with the petitioning organization:

The position of [REDACTED] involves responsibilities for overseeing and directing the implementation of select . . . Christian-oriented programs and projects ranging from [REDACTED] for the [REDACTED] for the Disabled, to name a few. [The beneficiary] will design, plan and direct spiritual content related to the development and communication of informational programs aimed to keep the public informed of our organization's Christian-oriented activities and services. She will study needs, objectives and policies of our organization in order to promote our Christian-oriented services and activities. She will oversee and effectuate strategies to educate and inform the public of our organization's Christian faith-based programs and services; develop program resources for national and international projects of our organization's Disability Center team; and, work closely with our partners to promote our Christian faith-based message through field national and international ministries. She will research, analyze, develop and coordinate the implementation of new activities to expand our outreach programs. She will create and design written materials and outreach programs for international ministries geared at meeting the spiritual needs of divergent communities in foreign countries. Furthermore, [the beneficiary] will also collaborate, plan and implement our organization's fundraising activities, including working with volunteer committees to solicit and maintain funds for the organization and any special projects being developed.

The USCIS regulation at 8 C.F.R. § 204.5(m)(12) reads:

Inspections, evaluations, verifications, and compliance reviews. The supporting evidence submitted may be verified by USCIS through any means determined appropriate by USCIS, up to and including an on-site inspection of the petitioning organization. The inspection may include a tour of the organization's facilities, an

interview with the organization's officials, a review of selected organization records relating to compliance with immigration laws and regulations, and an interview with any other individuals or review of any other records that the USCIS considers pertinent to the integrity of the organization. An inspection may include the organization headquarters, satellite locations, or the work locations planned for the applicable employee. If USCIS decides to conduct a pre-approval inspection, satisfactory completion of such inspection will be a condition for approval of any petition.

On February 24, 2009, a USCIS officer visited the petitioning organization and spoke to [REDACTED] and other officials. The officer determined that the beneficiary "will be coordinating the organization's interest in China. She is responsible for emailing, organizing medical teams, information gathering, and . . . creating strategic plans to aid the disabled in China." The officer concluded that the beneficiary's "duties are not consistent with [those] of a Religious Worker. [The beneficiary's] duties are primarily administrative in nature, and any traditional religious work appears to be incidental."

The director denied the petition on July 21, 2009, stating that the petitioner had not shown that "the proposed duties of the position are sufficiently specialized in a theological doctrine so as to constitute a religious occupation." On appeal, [REDACTED] states: "The core of what [the beneficiary] does is essentially 'outreach,' in the sense that she is directly involved in developing approaches, creating and selecting content, and implementing programs aimed at spreading the gospel of [REDACTED]. [REDACTED] asserts that the beneficiary "spends approximately 60% to 70% of her time" developing written materials and outreach programs; planning and directing spiritual content, and working "with our partners to promote our Christian faith-based message through field ministries, with a focus on China." [REDACTED] states: "Virtually all of [the petitioner's] relationships and programs with our Chinese partners were established and developed by [the beneficiary] in her capacity as Project Manager, National and International Ministries."

Several letters accompany the appeal. [REDACTED] founder and namesake of the petitioning organization, states:

I am a quadriplegic who was injured in a diving accident in 1967. . . . In 1979, I founded [the petitioning organization] . . . to accelerate Christian ministry in the disability community around the world.

. . . [The petitioner] serves in our international department and her title is Project Manager for China. We chose this particular title for her due to the sensitive nature of using Christian titling in countries where religious freedom is limited.

In this position her responsibilities encompass the following:

- Studying the needs, objectives and policies of our organizations.
- Developing special outreach projects in China – all of them aimed at furthering the Gospel.

- Dissemination of religious creed through teaching, mentoring, sharing spiritual journeys and launching a variety of programs with a focus on disability ministry. [The beneficiary] designs, plans and develops the religious content of many of our programs geared at meeting the spiritual needs of our divergent communities in China.
- Developing strategies and utilizing our resources to educate and inform about our mission.
- Playing a significant role in creating and implementing new activities to expand many of these programs – teaching and mentoring others about disability ministry and how to best use this knowledge to achieve our goal of evangelizing China.
- Identifying partners in China, reaching out to them and not only establishing programs with them, but building on these relationships – given the current “religious” climate in China, gaining trust from our partners in China is of utmost importance and a key to our success. Solid relationships such as these have proven to be the basis for a successful ministry to families affected by disability in other countries. Though we utilize different programs to reach disabled people and their families, [the beneficiary] clearly understands that real and lasting change among people comes through a relationship with Jesus Christ – and to this end she labors.

As our organization has grown over the years, we have recognized the importance of these outreach positions and I can confirm that these types of positions relate to traditional religious functions, and these positions are directly related to our religious creed and beliefs. Finally, I can also confirm that these types of positions are traditionally permanent, full-time and salaried occupations within our Christian organization.

states:

I am the senior producer for the

I liaison with [the beneficiary] regularly, as we air “” on our radio station. [The beneficiary’s] work enables our radio station to air “” in Chinese to China and other Chinese-speaking areas, as well as world-wide on the Internet. [The beneficiary] not only works with a translator in China, but she voices the scripts in Chinese; she is

However, [the beneficiary’s] work at [the petitioning organization] and her/their cooperation with is not limited to editing and voicing. It is my understanding that [the beneficiary] travels regularly to China to implement the special outreach projects that she develops and which are specifically targeted toward the disability community there. She essentially spearheads [the petitioner’s] efforts to

reach the disability community with its religious message, humanitarian support, and other services. . . . How could such outreach work not be “religious work”?

states:

My area of expertise is the community integration of persons with disabilities via faith groups, specifically the [redacted] to persons with disabilities. In this capacity, I have had many interactions with people from the [petitioning] organization as we have collaborated on projects of joint interest. . . .

[I]t is my professional opinion that the Program Manager position is “religious” in nature as the duties are related to and clearly involve carrying out the [petitioner’s] mission. The nature of [the beneficiary’s] job is ultimately to disseminate religious creed – to spread the Gospel of Jesus Christ through outreach. . . .

[The petitioner’s] particular religious message just happens to have a humanitarian focus on disability ministry. This however, in no way lessens the religious nature of [the beneficiary’s] job and it would be a misstatement to classify this job as one that is simply administrative. It is also a misstatement to say that the religious or spiritual component of the job is merely incidental. . . .

I have worked closely with the [petitioning] organization in the development of religious curriculum in the area of disability. . . . In this arena, [the beneficiary] has also played a significant role in developing spiritual content and interpreting concepts that are culturally appropriate and relevant to the Chinese culture.

The petitioner submits examples of outreach materials, as well as electronic mail messages to and from the beneficiary concerning her work. These materials are consistent with the statements quoted above.

After careful consideration of the materials submitted, we conclude that the beneficiary’s duties are primarily religious, rather than administrative. Any administrative functions that the beneficiary performs appear to derive from her leadership position; they are not logistical support duties such as handling correspondence, filing, and finances. Witnesses both in the petitioning organization and outside of it have credibly attested to the beneficiary’s central role in the petitioner’s outreach to China, and the religious nature of that activity.

We acknowledge that, under the regulation at 8 C.F.R. § 204.5(m)(12), unsatisfactory results from a compliance review are grounds for denial of a petition. At the same time, such a finding does not invariably result in a permanent and irrebuttable presumption of ineligibility; some findings are more easily overcome than others. In this instance, the compliance review report does not indicate that the petitioner’s description of the beneficiary’s duties was in any way inaccurate or misleading. The inspecting officer declared that the beneficiary’s duties appear to be more administrative than religious, but offered no elaboration or explanation. It appears that this conclusion resulted from incomplete

information about the beneficiary's work. The petitioner has remedied that defect on appeal, and we see no other deficiency in the record that would prevent approval of the petition as it now stands.

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 AAO will withdraw the director's denial decision and approve the petition.

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