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U.S. Citizenship
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MAR 22 2007

FILE:

Office: CHICAGO, IL

Date:

IN RE:

Applicant:

APPLICATION:

Application to Preserve Residence for Naturalization Purposes under Section 317 of the
Immigration and Nationality Act, 8 U.S.C. § 1428.

ON BEHALF OF APPLICANT:

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application to preserve residence for naturalization purposes was denied by the District Director, Chicago, Illinois. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant seeks to preserve his residence for naturalization purposes pursuant to section 317 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1428, as a lawful permanent resident who is engaged solely by a religious denomination or by an interdenominational mission organization having a bona fide organization within the United States as a missionary.

The district director determined that the applicant had failed to establish he would be engaged in missionary work, or that the Christian Witness Fellowship organization listed on his Form N-470, Application to Preserve Residence for Naturalization Purposes (Form N-470) qualified as a bona fide organization within the United States. The district director found further that new employer evidence submitted by the applicant subsequent to a Request for Evidence (RFE), was inapplicable to the present Form N-470 application, and the district director determined that in any event, the new information failed to demonstrate that the applicant would be engaged as a missionary for the new organization (Gospel Operation International for Chinese Christians), or that the new employer qualified as a bona fide organization within the United States.

The applicant asserts on appeal that he is no longer a member of the Christian Witness Fellowship, and that the organization cannot send missionaries to China. The applicant indicates further that a March 24, 2005 letter from the Gospel Operation International for Chinese Christians establishes that it is a bona fide organization in the United States.

Section 316(a)(1) of the Act, 8 U.S.C. § 1427(a)(1) provides in pertinent part that:

No person . . . shall be naturalized, unless such applicant, (1) immediately preceding the date of filing his application for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least five years and during the five years immediately preceding the date of filing his application has been physically present therein for periods totaling at least half of that time

Section 317 of the Act, 8 U.S.C. § 1428 provides an exception to the continuous residence and physical presence requirements set forth in section 316 of the Act, and states that:

Any person who is authorized to perform the ministerial or priestly functions of a religious denomination having a bona fide organization within the United States, or any person who is engaged solely by a religious denomination or by an interdenominational mission organization having a bona fide organization within the United States as a missionary, brother, nun, or sister, who

(1) has been lawfully admitted to the United States for permanent residence,

(2) has at any time thereafter and before filing an application for naturalization been physically present and residing within the United States for an uninterrupted period of at least one year, and

(3) has heretofore been or may hereafter be absent temporarily from the United States in connection with or for the purpose of performing the ministerial or priestly functions of such religious denomination, or serving as a missionary, brother, nun, or sister, shall be considered as being physically present and residing in the United States for the purpose of naturalization within the meaning of section 316(a), notwithstanding any such absence from the United States, if he shall in all other respects comply with the requirements of the naturalization law. Such person shall prove to the satisfaction of the Attorney General that his absence from the United States has been solely for the purpose of performing the ministerial or priestly functions of such religious denomination, or of serving as a missionary, brother, nun, or sister.

The record reflects that the applicant was admitted to the United States as a lawful permanent resident on August 6, 1996. It is noted that the record lacks complete evidence to establish the applicant's U.S. residence and physical presence since his admission as a lawful permanent resident. The Form N-470 indicates the Christian Witness Fellowship will engage the applicant as a missionary in China from August 1, 2004 to July 31, 2009. The district director sent an RFE to the applicant on February 28, 2005, requesting evidence regarding the nature and details of the applicant's work with the Christian Witness Fellowship, and regarding the organizational structure of the Christian Witness Fellowship, and its status as a bona fide organization in the United States.¹ In response to the RFE, and on appeal, the applicant asserts that he will not be employed as a missionary for the Christian Witness Fellowship, and that instead he will be engaged as a missionary in China for a different group called, the Gospel Operation International for Chinese Christians.

As noted in the district director's decision, the basis of the present Form N-470 is the applicant's claimed missionary engagement in China for the Christian Witness Fellowship.

8 C.F.R. § 103.2(b)(1) provides that:

An applicant or petitioner must establish eligibility for a requested immigration benefit. An application or petition form must be completed as applicable and filed with any initial

¹ It is noted that "a bona fide organization which is affiliated with a religious denomination is defined as an organization which is both closely associated with the religious denomination and exempt from taxation pursuant to section 501(c)(3) [of the Internal Revenue Code.]"

Religious denomination is defined as a religious group or community of believers having some form of ecclesiastical government, a creed, or a statement of faith. Some form of worship, a code of doctrine and discipline, and religious services and ceremonies are required. There must be established places of worship and religious congregations or comparable indications of the existence of a bona fide religious denomination by the religious denomination. An interdenominational religious organization which is exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986 will be defined as a religious denomination as well.

evidence required by regulation or by the instructions on the form. Any evidence submitted is considered part of the relating application or petition.

8 C.F.R. § 103.2(b)(8) provides in pertinent part that:

If there is evidence of ineligibility in the record, an application or petition shall be denied on that basis notwithstanding any lack of required initial evidence. . . . [where] the Service finds that the evidence submitted either does not fully establish eligibility for the requested benefit or raises underlying questions regarding eligibility, the Service shall request the missing initial evidence [T]he applicant or petitioner may:

- (i) Submit all the requested initial or additional evidence;
- (ii) Submit some or none of the requested additional evidence and ask for a decision based on the record; or
- (iii) Withdraw the application or petition.

In the present matter, the applicant responded to the district director's RFE by stating that he is no longer a member of the Christian Witness Fellowship, and that he will not be engaged as a missionary in China for the Christian Witness Fellowship. Accordingly, the record lacks initial evidence of eligibility pursuant to 8 C.F.R. § 103.2(b)(8). The applicant failed to submit evidence establishing that the Christian Witness Fellowship is a bona fide organization within the United States, or that the applicant is engaged as a missionary with the Christian Witness Fellowship – the basis for filing the Form N-470. The Form N-470 application must therefore be denied.

The AAO notes further that the record fails to establish that the applicant qualifies for the benefits of section 317 of the Act based on his engagement as a missionary with the Gospel Operation International for Chinese Christians. The record contains a March 24, 2005, letter signed by the Associate General Director of the Gospel Operation International for Chinese Christians stating that: the organization is a Protestant interdenominational missionary sending agency; that it is incorporated in California; and that it is a non-profit organization under Internal Revenue Service Code 501(c)(3). The letter states that the applicant will teach the Bible in a Bible training center in mainland China, and that he will be provided with housing and expenses, and paid \$1200.00 per month. The record contains no corroborative or detailed evidence to establish the terms of the applicant's missionary engagement contract. The record also lacks corroborative evidence to establish that the Gospel Operation International for Chinese Christians is a bona fide organization in the United States.

The burden of proof in these proceedings rests solely with the applicant. *See* section 291 of the Act, 8 U.S.C. § 1361. In the present matter, the applicant has failed to establish that he will be absent from the United States solely for the purpose of serving as a missionary for a bona fide organization within the United States, as required by section 317 of the Act. The appeal will therefore be dismissed and the application denied.

ORDER: The appeal is dismissed. The application is denied.