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



U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

FILE: [REDACTED]  
EAC 03 220 51563

Office: VERMONT SERVICE CENTER

Date: MAR 01 2005

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:

[REDACTED]

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, Director  
Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner is a church. 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 an evangelist. The director determined that the petitioner had not established that the beneficiary has worked, or will work, full-time for the petitioner. Thus, the director determined that the beneficiary lacks the required qualifying experience as well as a valid offer of full-time employment.

On appeal, counsel asserts that the beneficiary will work a full-time schedule.

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 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 regulation at 8 C.F.R. § 204.5(m)(1) indicates that the "religious workers must have been performing the vocation, professional work, or other work continuously (either abroad or in the United States) for at least the two-year period immediately preceding the filing of the petition." 8 C.F.R. § 204.5(m)(3)(ii)(A) requires the petitioner to demonstrate that, immediately prior to the filing of the petition, the alien has the required two years of membership in the denomination and the required two years of experience in the religious vocation, professional religious work, or other religious work. The petition was filed on October 23, 2002. Therefore, the petitioner must establish that the beneficiary was continuously performing the duties of an evangelist throughout the two years immediately prior to that date.

With regard to what constitutes continuous work, the Board of Immigration Appeals determined that a minister of religion was not continuously carrying on the vocation of minister when he was a full-time student who was devoting only nine hours a week to religious duties. *Matter of Varughese*, 17 I&N Dec. 399 (BIA 1980).

The petitioner's initial filing includes an affidavit from Rev. [REDACTED] founder and chairman of the petitioning church. Rev. [REDACTED] states:

[The beneficiary] has been a reverend since July 1997. . . . His work experience includes some four years he spent working in different parts of Haiti preaching the words of our savior Jesus Christ. . . .

Since his arrival in the United States last April, he has been visiting the sick, the downtrodden and those hospitalized without immediate family members in the United States. . . .

[A]s compensation to [the beneficiary] for the work he will be perform[ing] for our church, twelve members (believers) have agreed to contribute one hundred Dollars (\$100.00) on a monthly basis as a stipend to [the beneficiary]. This amount of Twelve Hundred Dollars (\$1,200.00) will help him cover his personal expenses. In addition to that, our church will provide him with food, shelter and transportation.

Although the form is not required for the petition, the beneficiary executed Form G-325A, Biographic Information. The form instructs the individual to list "employment [for the] last five years," including the "occupation" and the "full name and address of employer." The beneficiary indicated that he has been an "evangelist" since 1998. Under "full name and address of employer," the beneficiary simply repeated the word "evangelist." According to information on the Form I-360 petition, the beneficiary entered the United States on April 23, 2002, as a B-2 nonimmigrant visitor for pleasure.

The director instructed the petitioner to provide additional information about the beneficiary's schedule, and his activities and whereabouts during the 2000-2002 qualifying period. In response, the petitioner provided copies of two schedules. One of these, "The Church Weekly Schedule," is a general schedule of church activities and does not mention the beneficiary. The other pertains specifically to the beneficiary, and contains the following information:

**SUNDAYS**

**10:30 – 11:45 AM**

Presiding in Sunday school starting with prayer and teaching the golden verse to all the classes before attending his class to teach

**MONDAYS**

**7:30 – 9:30 PM**

Preaching at men's house to house missionary service

**WEDNESDAYS**

**7:30 – 9:30 PM**

Men's house to house missionary service (evangelization)

**THURSDAYS**

**7:00 – 9:00 PM**

Conducting local prayer meetings for church members in Canarsie who aren't able to attend weekly services

**FRIDAYS**

**7:30 – 9:30 PM**

Conducting prayer meeting in the church

Every **3<sup>RD</sup> SUNDAYS** on the road in hospitals, nursing homes visiting the sick from 3 to 7 PM.

Special prayers every 3<sup>RD</sup> FRIDAYS praying through the night for all kind of problems from 7:00 PM to 12:00 AM.

The above schedule portrays a typical work week of 9¼ hours, with an additional seven hours worked every third week. (The five hours of “special prayers” on every third Friday overlaps with the regular two-hour Friday night prayer meeting, and therefore amounts to a net increase of three, rather than five, hours worked.

The petitioner has also submitted monthly programs showing that the beneficiary delivered “messages” during most Sunday night services during the early months of 2003. The petitioner does not explain why the beneficiary’s personalized work schedule does not even mention these Sunday night “messages,” let alone specify their duration.

The petitioner, in responding to the director’s notice, did not address the director’s request for specific information regarding the beneficiary’s activities throughout the two-year qualifying period.

The director denied the petition, stating:

Your organization . . . proposes to employ the beneficiary as an Evangelist for which he will be paid \$100 monthly by your parishioners, for a yearly income of \$1200. . . .

A work schedule for the beneficiary says that he works, or would work a total of slightly more than 9 hours weekly on a regular basis, and that every third Sunday he would work an additional 4 hours, and every third Friday he would work an additional 5 hours apparently.

The record does not establish that the beneficiary was a full-time religious worker for the entire 2-year period from October 2000 to October 2002, [or] that he would be a full-time religious worker in the job offered.

On appeal, counsel states that Rev. [REDACTED] affidavit, included with the initial filing, shows that “[t]he work schedule of the beneficiary will be a full time one.” Counsel also asserts that the beneficiary “will be paid \$1,200.00 per month and not \$1,200.00 per year.”

The confusion regarding the beneficiary’s salary appears to result from Rev. [REDACTED] ambiguous statement that “twelve members (believers) have agreed to contribute one hundred Dollars (\$100.00) on a monthly basis.” Rev. [REDACTED] did not specify that these twelve members would *each* contribute \$100 per month, although his affidavit permits such an interpretation. It is not readily clear why selected parishioners, rather than the church itself, would be responsible for the beneficiary’s compensation.

More significantly, the record offers no support for counsel’s claim that “[t]he work schedule of the beneficiary will be a full time one based upon the affidavit of Rev. [REDACTED]” Rev. [REDACTED] affidavit says nothing about whether the work schedule is, or will be, full-time (although he does comment on the full-time status of another named worker at the church). It remains that the detailed work schedule shows only nine to sixteen hours per week, with at most a few more hours for the beneficiary’s Sunday night messages.

Further supporting the director’s finding regarding the beneficiary’s past work, the petitioner failed to address the director’s request for information about the beneficiary’s work throughout the *entire* two-year qualifying period. According to the petition form, the beneficiary entered the United States in April 2002, only six

months before the filing date. The beneficiary's passport reflects earlier admissions into the United States, but his Form G-325A indicates that he resided in Haiti until his April 2002 entry. From this evidence, we conclude that the beneficiary's earlier entries amounted to brief visits, and his April 2002 entry was not a return to any established domicile (or employment) in the United States. Thus, evidence regarding the beneficiary's work for the petitioner can account, at most, for only six months of the two-year qualifying period. Rev. [REDACTED] vague assertion that the beneficiary spent four years "working in different parts of Haiti" contains no verifiable details, and Rev. [REDACTED] does not claim personally to have witnessed the beneficiary's religious work in Haiti between 2000 and 2002. Rather, he asserts that he has run the petitioning church in New York since 1973.

Because the record contains no coherent information or documentary evidence about the beneficiary's work experience in Haiti prior to his April 2002 arrival in the United States, we affirm the director's finding that the petitioner has not established that the beneficiary meets the two-year experience requirement.

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

**ORDER:** The appeal is dismissed.