



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED]
SRC 05 109 52190

Office: TEXAS SERVICE CENTER Date: DEC 20 2006

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:

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.

2 Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Texas 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 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 a missionary. The director determined that the petitioner had not established that the beneficiary's position qualifies as a religious occupation.

On appeal, the petitioner submits copies of previously submitted documents and argues that the director has failed to follow the regulations.

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 raised in the denial 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.

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.

[REDACTED], an Elder of the petitioning church, describes the beneficiary’s work:

Missionary Outreach

1. Preach the Gospel of Christ to unbelievers in order to bring them to salvation. This requires daily visitations.
2. Nourish and shepherd the new believers by establishing meetings in their homes.
3. Teach and perfect the new believers in small group meetings.

Church and Work Meetings

4. Build up the church by speaking for the Lord in church meetings.
5. Attend all the large church meetings (5 per week).
6. Attend all the coordinating meetings of the full-time religious workers (6 per week).

Personal Development and Coordination with Co-workers

7. Gain a comprehensive knowledge of the Bible and key spiritual books so the truth can be administered to others.
8. Exercise themselves in prayer, knowing the Lord Jesus Christ, and fellowship.

The petitioner indicates that the beneficiary devotes over 50 hours per week to the duties listed above, and the petitioner submits detailed work logs to corroborate that claim. The petitioner submits tax documents showing that the petitioner has consistently paid the beneficiary for her work. [REDACTED] lists the qualifications that the petitioner requires of its missionaries:

1. At least 21 years old.
2. Sound physical and mental health.
3. College level course work (preferably a bachelor’s degree or higher).
4. One or two years as a member of [the petitioning church] or one of its affiliates.
5. The capacity for intensive religious training and service.
6. A seeking and committed Christian.
7. A calling from God to serve Him as a full-time worker.
8. Unanimous approval from the elders of the church.

On May 27, 2005, the director issued a request for evidence, instructing the petitioner to submit additional evidence to show the requirements for the beneficiary’s position. In response, the petitioner observes that the regulatory definition of “religious occupation” at 8 C.F.R. § 204.5(m)(2) specifically includes missionaries. We acknowledge the regulatory language, while at the same time observing that a petitioner cannot make an alien eligible simply by applying the title “missionary” to a position with non-qualifying secular duties. That

being said, the description of the beneficiary's duties appears to be compatible with religious functions, rather than purely secular functions such as administrative duties.

The petitioner also submits documentation attesting to the beneficiary's two years of study at the "Bible Truth & Church Service Training Institution" operated by Living Stream Ministry in Anaheim, California. That program's training administrator, [REDACTED] states that the program is "designed to prepare Christians for missionary work throughout the world."

The director denied the petition, stating: "The evidence does not show that this is or ever was a paid position with requiring [*sic*] specified credentials or formal religious education." On appeal, [REDACTED] maintains that the petitioner has "thoroughly documented" that the beneficiary's "missionary duties . . . do qualify as a traditional religious function." The petitioner argues that the director's reliance on "specified credentials or formal religious education" is misplaced.

After careful and prolonged consideration of this issue, the AAO finds that the "formal training" issue has received a disproportionate amount of weight in adjudications of special immigrant religious worker petitions. Obviously, when a given position clearly requires specific training, 8 C.F.R. § 204.5(m)(3)(ii)(D) requires the petitioner to show that the alien possesses that training; but the issue of training should not be a primary factor when considering the question of whether that position relates to a traditional religious function. Of greater importance is evidence showing that churches or other entities within a given denomination routinely employ paid, full-time workers in comparable positions, and that those positions do not embody fundamentally secular tasks, indistinguishable from positions with secular employers.

In this instance, the beneficiary's described duties are clearly distinct from wholly or largely secular functions; her missionary activities have no apparent close analogues outside the religious sphere. The job title "missionary" appears to be an accurate label here, rather than a misleading label applied primarily to secure immigration benefits for the beneficiary. The record also clearly demonstrates that the petitioner has consistently paid the beneficiary for her work, making the petitioner's claims more credible than if the petitioner had claimed that what was typically a volunteer duty has suddenly become a paid position, coincident with the filing of the petition.

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.