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U.S. Citizenship  
and Immigration  
Services

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FILE: [Redacted]  
EAC 05 219 51652

Office: VERMONT SERVICE CENTER

Date: JUN 07 2007

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.

*Laura Deadrick*  
for Robert P. Wiemann, Chief  
Administrative Appeals Office

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

The petitioner is a Christian ministry organization. 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 presbyter. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience as a presbyter immediately preceding the filing date of the petition. In addition, the director determined that the petitioner had not established that it had made a qualifying job offer to the beneficiary, or that the proffered position qualifies as a religious occupation.

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).

In a letter accompanying the initial submission, [REDACTED], Senior Pastor and President of the petitioning organization, stated:

[The beneficiary] has traveled extensively throughout the United States for the past 10 years in relation to [the petitioner] and the ministries throughout this country. We hereby attest that [the beneficiary] is a member of our organization and has been deemed qualified to carry out this work on behalf of the ministry and will be compensated through the offerings of the churches that he visits. [The beneficiary] will travel in a professional capacity representing the organization as a regional presbyter in our organization.

The petitioner's initial submission also included a short biography of the beneficiary, which reads, in part:

[The beneficiary] is the President-Founder of the Flaming Fire of God Ministries International, which started in 1986 and is based in Kabwe, Zambia with liaison offices in Lubumbashi – D.R. Congo and Buea – Cameroon. . . .

[The beneficiary] travels to the USA every year since 1989. Some years he travels twice or trice for the ministry of the Word of God.

[The beneficiary] is also a Diplomat working with International Association of Pan African Institute for Development where he has served in different capacities for the past 20 years. In this organization he has filled the posts of: Senior Documentalist, Senior Lecturer, Principal Lecturer, Head of Media Resource Center, [and] General Course Coordinator (Director of Studies). . . .

[The beneficiary] is an ordained minister of Covenant Ministries International (CMI) since 1995 run by Faith Fellowship ministries of New Jersey under [REDACTED]. He has been associated with [the petitioner] for more than 10 years as a visiting Minister. In 2001 he became officially an ordained member of [the petitioning organization] which is also an affiliate of CMI.

A certificate in the record states that the petitioner ordained the beneficiary as a minister on September 23, 2001. This is consistent with the assertion in the beneficiary's biography. The record also contains numerous educational and training certificates from before 2001, including a 1997-1998 transcript from the International Theological Seminary in Bradenton, Florida. Most, but not all, of these certificates concern religious issues.

We shall first address the issue of the beneficiary's past experience. 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 experience in the religious vocation, professional religious work, or other religious work. The petition was filed on August 2, 2005. Therefore, the petitioner must establish that the beneficiary was continuously performing the duties of a presbyter throughout the two years immediately prior to that date.

On November 30, 2005, the director issued a request for evidence (RFE), in which the director noted the beneficiary's claims of extensive international travel over the past ten years. The director instructed the petitioner to submit further evidence of the beneficiary's continuous religious work during 2003-2005, including a "detailed listing of the beneficiary's duties, the commencement and termination dates of employment, and the time spent per week by the beneficiary performing those duties."

In response, the petitioner submitted brochures promoting various religious events. These brochures place the beneficiary in Zambia in November 2003 and in January 2005, in Texas in July 2005, and in Kansas in February 2006.

[REDACTED] Pastor of Spiritual Enrichment at Faith Fellowship World Outreach Ministries, Inc., Fort Myers, Florida, stated that the beneficiary "attended a special [six-month] spiritual enrichment program," and that since 2002, the beneficiary "travels to the USA twice a year to share his rich experience with participants who come from all over the world."

[REDACTED], Senior Pastor at The River International, Cape Coral, Florida, stated that the beneficiary "has been ministering to our congregation yearly since 2001 when we first met. . . . [The beneficiary] has also served as a teacher for our MPIP (Master Pastor Internship Program) which is a nine-month intensive training program." [REDACTED] further stated: "we believe firmly that he has been operating in total integrity as a full-time ordained minister of the Gospel."

[REDACTED] Senior Pastor at Fort Myers Christian Outreach Center, Fort Myers, Florida, stated that the beneficiary has visited that church "2/3 times a year" "as a guest minister" "since 2001."

The above letters attest not to continuous religious work, but to occasional visits to Florida. To establish more continuous work, the petitioner submitted a letter from [REDACTED], International Director of Programmes at the Flaming Fire of God Ministries International, Kabwe, Zambia. Pastor Tembo stated:

[The beneficiary] is the President Founder of The Flaming Fire of God Ministries International. He has been pasturing since 1987. . . . [The beneficiary] works 6 days a week a minimum of 8 hours daily.

[The beneficiary] has organized many life changing conferences in Zambia, Tanzania, Botswana, D R Congo, Cameroon, Nigeria and Gabon. He has also planted several churches.

He has and continue[s] to minister in many conferences across Africa, Asia and USA.

We note that [REDACTED] did not provide details of the day-to-day work that the beneficiary purportedly performs 48 hours per week, nor did the petitioner submit documentation of such day-to-day activities. The brochures mentioned above account for only a few days during the two-year qualifying period, and do not in any way imply continuous, full-time activity.

The director denied the petition on May 17, 2006, stating that the record contains no evidence that the beneficiary has worked for the petitioner, and that the beneficiary last entered the United States "as a B-2 nonimmigrant temporary visitor for pleasure."

On appeal, [REDACTED] asserts that the petitioner has amply documented that the beneficiary "has been associated with our Ministry for more than 2 years." "Association" is not necessarily the same thing as continuous employment. The evidence in the record shows that the beneficiary has traveled extensively,

participating in conferences, training, and other events in several countries; and that the beneficiary has participated in numerous audio and video recordings; but this evidence does not establish that the beneficiary's activities were either continuous or full-time. The activities documented are, by nature, short-term and intermittent.

Furthermore, as we shall discuss in greater depth later in this decision, the petitioner demonstrates, on appeal, that the beneficiary earns his income not from religious work, but as an oil company executive.

We affirm the director's finding regarding the beneficiary's lack of qualifying experience during the two-year qualifying period.

The next 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) offers the following pertinent definitions:

*Minister* means an individual duly authorized by a recognized religious denomination to conduct religious worship and to perform other duties usually performed by authorized members of the clergy of that religion. In all cases, there must be a reasonable connection between the activities performed and the religious calling of the minister. The term does not include a lay preacher not authorized to perform such duties.

*Religious occupation* means 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.

The director, in the RFE, requested information about the position offered to the beneficiary, as well as "copies of published material . . . that shows which occupations are considered religious occupations within the [petitioning] organization, and what the occupation's qualifications are."

In response, the petitioner submitted an unsigned letter containing the following information:

Job title     International Director for Missions Outreach

Job Description

- Foreign Mission and Multicultural Outreach
- Organization of Conferences and development seminars
- Leadership training and development
- Counseling and post trauma counseling
- Healing and miracles services
- Evangelism and church planting
- Liaison with our African participants in the Calvary International Worship Center
- Presbytery member of Calvary International Worship Center

- Coordinating fund raising for mission and donations
- Work with the anticipated French speaking congregation
- And as directed by the Presbytery

In the denial notice, the director stated that the petitioner has not established the relevance of the beneficiary's various certificates, and that "[t]he record does not establish that the beneficiary has been and will be employed in a religious occupation."

On appeal, the petitioner repeats the prior assertion that the beneficiary is a minister. The statute and regulations have different standards for aliens in the vocation of a minister than for aliens in a religious occupation. The director did not consider the petitioner's claims, or give due consideration to the documentation of the beneficiary's ordination in 2001. We find that the beneficiary meets the regulatory definition of a minister at 8 C.F.R. § 204.5(m)(2). This finding, however, does not ensure approval of the petition. Other factors, discussed elsewhere in this decision, prevent a finding of eligibility.

In the November 2005 RFE, the director requested "evidence that establishes that the beneficiary will be employed full-time in a religious vocation, professional religious work, or other religious work." The director also called for information regarding "the specific wage and other benefits offered," and "documentation [to] clearly indicate that the alien will not be solely dependent on supplemental employment or solicitation of funds for support."

While the petitioner's response included a list of intended duties, quoted elsewhere in this decision, the petitioner's response did not indicate how much the beneficiary would earn or who would pay him; there were no details at all regarding the terms of employment. In denying the petition, the director determined "the record does not include evidence that the beneficiary will be employed full-time in a religious vocation, professional religious work, or other religious work," and that "the alien will be solely dependent on the solicitation of funds for support." Therefore, the director concluded that the petitioner had not established "that the beneficiary has been given a valid job offer."

On appeal, [REDACTED] states that the beneficiary's work on behalf of the petitioner "is not . . . employment at all." The petitioner submits copies of recent payroll registers, including alphabetical listings of the petitioner's employees. The beneficiary's name does not appear on these documents. The absence of the beneficiary's name confirms the petitioner's assertion that the beneficiary's relationship with the petitioner is not that of an employee to his employer.

[REDACTED] states that the beneficiary "is coming to work with us as a Volunteer Missionary for just 3 years being supported from his business." Regarding the nature of "his business," [REDACTED] states that the beneficiary "is a Board Chairman of [an] Oil Company, which offers him a monthly allowance of \$12,600.00 plus many other benefits." The petitioner submits a copy of a March 10, 2005 letter from an official of Kafco Oil in Zambia, confirming the terms [REDACTED] identified. Thus, the petitioner has shown that the beneficiary holds a valid job offer from [REDACTED] but not from the petitioning entity.

The petitioner has, thus, confirmed the temporary nature of the job offer, stating its intention to engage the beneficiary's services "for just 3 years." [REDACTED] states: "Denying [the beneficiary] the possibility to live here for a few years is denying a great blessing to the local church." If the petitioner has a *bona fide* intention to employ the beneficiary "for a few years," there exists a nonimmigrant classification (R-1) for religious workers. The petitioner does not even acknowledge that such a classification exists, let alone explain why its admittedly temporary job offer entitles the beneficiary to permanent, rather than temporary, immigration benefits.

Because the petitioner seeks the beneficiary's services for only a limited period, we cannot conclude that the beneficiary seeks to enter the United States solely to carry on the vocation of a minister. Reinforcing this conclusion is the petitioner's open admission that the beneficiary derives substantial income from sitting on the board of an "Oil Company." Because section 101(a)(27)(C)(ii)(I) of the Act specifically requires that the alien seeks to enter the United States *solely* for the purpose of carrying on the vocation of a minister, the beneficiary's secular employment is inherently disqualifying. Special immigrant classification requires the beneficiary to have been and intend to be engaged solely as a minister of a religious denomination. See *Matter of Faith Assembly Church*, 19 I&N Dec. 391, 393 (BIA 1986).

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternative basis for denial. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely 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.