



U.S. Citizenship
and Immigration
Services

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CL

[Redacted]

FILE: [Redacted]
EAC 05 023 51186

Office: VERMONT SERVICE CENTER

Date: MAR 29 2007

IN RE: Petitioner:
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.

Maui Johnson

R 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 an evangelical Protestant 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 pastor. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience as a pastor immediately preceding the filing date of the petition.

On appeal, counsel argues in a brief that the petitioner had submitted ample evidence of eligibility.

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 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 November 1, 2004. Therefore, the petitioner must establish that the beneficiary was continuously performing the duties of a pastor throughout the two years immediately prior to that date.

Treasurer and Secretary of the petitioning church, states:

My name is [REDACTED] I'm the Treasury Secretary in charge of [the petitioning church]. . . . [The beneficiary] has served as a Pastor at our congregation in San Salvador, El Salvador from 1991 to 2001. . . .

In August of 2001, [the beneficiary] was sent to perform his religious duties at our congregation, located at [REDACTED] Davis, CA 95616. [The beneficiary] has been performing religious services as a member and volunteer . . . without any monetary compensation, we have only provided for his housing, meals and transportation costs for him and his family.

The petitioner submits copies of financial statements, showing "Parsonage Expenses" of \$25,000 or more each year from 2001 to 2003, and comparable amounts for "Rent" in 2001 and 2002. It is conceivable that these amounts include the beneficiary's housing expenses, but the reports cover the church in Maryland, and we are under no obligation to presume that these financial statements include the church in California. The statements do not show that "we," *i.e.*, the church in Maryland, covered the beneficiary's living expenses in California.

The petitioner does not claim that the beneficiary has ever served as a pastor in Maryland. Rather, the petitioner claims that the beneficiary has worked since 2001 in Davis, California. We must, therefore, search the record for evidence from the church in Davis, to establish that the beneficiary worked there.

The record contains a letter from [REDACTED] Financial Secretary of Pole Line Road Baptist Church. This church is located at [REDACTED] Davis, California, which appears to be the same address as the [REDACTED] identified in [REDACTED]'s letter. [REDACTED] states: "Attached is a true and accurate report of donations made to our church by Canaan Ministries during 2002, 2003, and 2004. . . . P.S. [the beneficiary] is pastor of Canaan Ministries." The accompanying documents show that Canaan Ministries, of [REDACTED] gave Pole Line Road Baptist Church eleven donations, totaling \$5,600, between March 24, 2002 and March 28, 2004. Many of these payments are marked "Utilities." It appears that Canaan Ministries pays for at least a portion of the utilities at [REDACTED] in exchange for the use of the building. The petitioner's initial submission contains no other documentation from the church in Davis. We note that the materials from Pole Line Baptist Church consistently refer to the church as "Canaan Ministries," not "Canaan Christian Church."

[REDACTED] Secretary of Grace and New Hope Ministries, Woodland, California, states that the beneficiary "has attended our services frequently within the last two years and has assisted in biblical teachings to the members of Grace and New Hope Ministries." [REDACTED] adds that the beneficiary "is currently pasturing [*sic*] a church in Davis, CA."

The petitioner's initial submission includes Form G-325A, Biographic Information, completed by the beneficiary. On that form, the beneficiary stated that he lived at [REDACTED] Woodland, California, from August 2001 to February 2003, and thereafter at [REDACTED] Davis, California. The petitioner has

claimed that the church provided the beneficiary with housing. There is no evidence that the church owns, rents, or otherwise controls the properties listed as the beneficiary's residences.

On June 17, 2005, the director instructed the petitioner to submit additional evidence to establish that the beneficiary worked and supported himself as a minister during the 2002-2004 qualifying period. In response, the petitioner has submitted additional documentation of the beneficiary's credentials as a minister, but no documentary evidence regarding the beneficiary's work during the qualifying period. The petitioner has submitted new letters, dated August 31, 2005, from [REDACTED] identified as "the Treasury /Secretary in charge of" the petitioning church. These letters discuss the beneficiary's duties and ministerial credentials.

The petitioner has also submitted two letters attributed to [REDACTED] both dated September 1, 2005 and both of which begin: "My name is [REDACTED] I'm the Treasury /Secretary in charge of the Canaan Christian Church congregation located at [REDACTED], Davis, California 95616." One of the letters continues:

By means of this letter, I would like to attest that [the beneficiary] was a volunteer Minister at our congregation and according to our books; he was given a monthly offering of \$500.00 (five hundred dollars) since June 2002-October 2004; offering that the congregation would collect and give to him through the church.

The director denied the petition on March 8, 2006, stating that the petitioner failed to provide evidence to support the claim that the beneficiary worked full-time as a minister during the qualifying period. On appeal, counsel asserts that "substantial documentation and letters from the Petitioner evidence [that the beneficiary] has clearly gained the requisite experience." Counsel does not describe the "substantial documentation," as distinct from "letters," said to support this claim. While a letter from [REDACTED] mentions "our books," the record does not contain copies of the Davis church's "books" or other contemporaneous records.

Counsel states that that the statute and regulations do not specifically require paid experience. Case law, however, is consistent with the director's finding. *See Matter of Faith Assembly Church*, 19 I&N Dec. 391, 393 (BIA 1986) and *Matter of Varughese*, 17 I&N Dec. 399 (BIA 1980). Such compensation need not take the form of a cash salary. *See Matter of Hall*, 18 I&N Dec. 203, 205 (BIA 1982), in which the Board of Immigration Appeals ruled that an alien who "receives compensation in return for his efforts on behalf of the Church" is "employed" for immigration purposes, even if that compensation takes the form of room and board rather than a cash wage.

Furthermore, whether the law requires payment or not, the petitioner had in fact claimed that the beneficiary actually received compensation, and the burden is on the petitioner to support its own claims. [REDACTED] initially claimed that the beneficiary served "without any monetary compensation, we have only provided for his housing, meals and transportation costs for him and his family." A subsequent letter attributed to [REDACTED] indicated that the beneficiary "was given a monthly offering of \$500.00." These two equally unsubstantiated assertions contradict one another.

The record reveals additional cause for doubt regarding the evidentiary value of these letters. The photocopied letterhead on [REDACTED] letters is identical to the petitioner's, except for the telephone number and address, listed as "[REDACTED] California 95616." There are other similarities between the September 1, 2005 letters attributed to [REDACTED] and the August 31, 2005 letters attributed to [REDACTED], such as the reference to the author as the "Treasury /Secretary in charge of" a particular church (with a space between "Treasury" and "/Secretary"), and the misspelling of "[REDACTED]" as [REDACTED] although a church official who worked on [REDACTED] would presumably be familiar with the correct spelling. [REDACTED]'s letter is printed on textured yellow paper with a "Southworth Credentials Collection" watermark. Letters from [REDACTED] submitted at the same time, are on the same distinctive paper. Given these similarities, all of which suggest common authorship, the AAO is not persuaded that these letters were, in fact, written independently by church officials in Maryland and California.

Because the origin of [REDACTED]'s letters is in serious doubt, and because [REDACTED] and [REDACTED] have contradicted one another regarding the terms of the beneficiary's remuneration, we cannot find that these letters have any probative value as evidence of eligibility. Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 586 (BIA 1988). In the face of this doubt, and in the absence of credible evidence, we affirm the director's finding that the petitioner has not satisfactorily established that the beneficiary continuously carried on the vocation of a minister throughout the two-year period immediately prior to the petition's filing date.

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.