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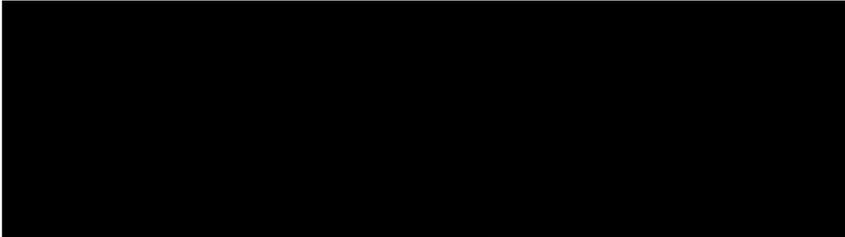
U.S. Department of Homeland Security  
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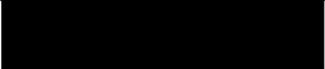
U.S. Citizenship  
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FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

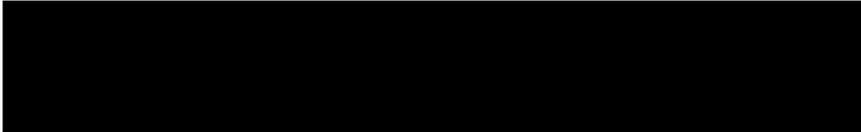
WAC 06 221 53960

NOV 26 2007

IN RE:

Petitioner:

Beneficiary:



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.

  
for Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, California 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 congregation of the Church of Christ denomination. 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 minister. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience as a minister immediately preceding the filing date of the petition.

On appeal, the petitioner submits documentation from the Philippines.

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 . . . ; 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 July 14, 2006. Therefore, the petitioner must establish that the beneficiary was continuously performing the duties of a minister throughout the two years immediately prior to that date.

In a June 28, 2006 letter accompanying the initial filing, [REDACTED] President of the petitioning congregation, stated that the beneficiary is “a Filipino Minister [who] has been serving as such in various local congregations and also as a professor in two of our Bible Seminaries in the Philippines for about twenty years already.” In a separate letter, bearing the same date, [REDACTED] listed the churches where the beneficiary is said to have served as a minister. [REDACTED] indicated that the beneficiary has served in the Philippine city of Aparri at the Aparri Church of Christ and at the Aparri Bible Seminary since 2000.

On January 23, 2007, the director issued a request for evidence (RFE), instructing the petitioner to submit further details and evidence about the beneficiary's employment between July 2004 and July 2006. The director requested "evidence . . . that shows monetary payment."

In response, the petitioner submitted photocopied pages from a December 27, 2004 "Souvenir Book" with a page showing the Aparri Church of Christ and listing the beneficiary as its minister. Of numerous documents from the Philippines relating to the beneficiary's ministerial work, the "Souvenir Book" is the only one dated between July 2004 and July 2006; the others do not directly pertain to the two-year qualifying period.

Chairman of the Board of Elders at the Aparri Church of Christ attested to the beneficiary's full-time work there as a minister during the qualifying period. stated: "Attached are [a] voucher of his salary and other benefits, and Social Security System. We cannot provide cop[ies] of withholding tax because in the Philippines, church workers are tax-exempt." The attachments consist of a copy of a "Cash Disbursement Voucher," dated January 30, 2007, showing payment of 6,137.50 Philippine pesos, and a Social Security System Contributions Payment Return, indicating contributions of 893 pesos by the Aparri Church of Christ and 10 pesos by the beneficiary in January 2007. These documents fall outside the qualifying period, and in fact did not exist until after the director issued the RFE on January 23, 2007.

The director denied the petition on May 9, 2007, stating that the petitioner failed to submit evidence that the beneficiary received compensation during the 2004-2006 qualifying period. On appeal, the petitioner indicates that church officials misunderstood the wording of the RFE and did not realize that the evidence of payment needed to cover the entire qualifying period.

In a supplement to the appeal, the petitioner submits copies of the beneficiary's weekly work schedules and biweekly pay vouchers, covering the entire two-year qualifying period. The evidence appears to be consistent and credible. The submission on appeal does not represent a revision or contradiction of the petitioner's prior claims. The petitioner makes a plausible claim to have misunderstood (due to a "language barrier") the exact nature of the director's earlier request for evidence "that shows monetary payment." The petitioner, in the RFE response, made a good faith effort to demonstrate that the beneficiary received remuneration for his work in Aparri, and that evidence is consistent with what the petitioner has supplied on appeal. As soon as the petitioner became aware that the director required evidence of payment *during the qualifying period*, the petitioner complied with thorough and persuasive evidence.

From the above evidence, we find that the petitioner has overcome the sole stated basis for denial. 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.