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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: OCT 11 2007
WAC 06 190 52176

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

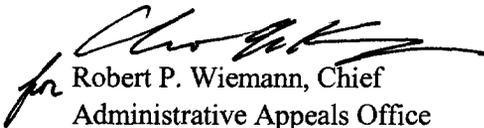
PETITION: Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

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.


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 dismissed.

The petitioner is a church of the Southern Baptist 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 pastor. The director determined that the petitioner had not established that the beneficiary had the requisite two years of membership in the religious denomination or continuous work experience as a pastor immediately preceding the filing date of the petition.

On appeal, the petitioner submits copies of letters and various documents.

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) states, in part:

An . . . I-360 visa petition for classification under section 203(b)(4) of the Act as a section 101(a)(27)(C) special immigrant religious worker . . . may be filed by or for an alien, who (either abroad or in the United States) for at least the two years immediately preceding the filing of the petition has been a member of a religious denomination which has a bona fide nonprofit religious organization in the United States. The alien must be coming to the United States solely for the purpose of carrying on the vocation of a minister of that religious denomination . . . [and] 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 experience in the religious vocation. The petition was filed on June 15, 2006. Therefore, the petitioner must establish that the beneficiary was continuously performing the duties of a pastor in the Southern Baptist denomination throughout the two years immediately prior to that date.

In a jointly signed letter dated May 26, 2006, church [REDACTED] described the beneficiary's claimed past work:

During the period of May 2004 through February 2005, (Ten months), [the beneficiary] ministered on the San Carlos Indian Reservation, San Carlos, Arizona.

During the period of March 2005 through April 2006, (fourteen months), [the beneficiary] ministered as Interim Pastor for [the petitioning church].

Elsewhere in the same letter, the Elders repeat that the beneficiary "stayed [at the petitioning church] through April, 2006." This is consistent with documentation showing that the beneficiary's status as an R-1 nonimmigrant religious worker expired on May 4, 2006. The petitioner's initial letter did not indicate what the beneficiary was doing during May and June 2006.

On December 13, 2006, the director issued a request for evidence (RFE), instructing the petitioner to submit "evidence of the beneficiary's work history beginning June 15, 2004 and ending June 15, 2006," including evidence "that shows monetary payment." The director also requested "evidence that the beneficiary has the two-year membership in the religious denomination."

In response, the petitioner submitted an unsigned statement that reads, in part:

June 15, 2004 – January 2005 – Prior to working as pastor [at the petitioning church, the beneficiary] ministered with [REDACTED]. The [beneficiary's family] with Pastor [REDACTED] from Trinity Baptist Church ministered in an outreach to the San [REDACTED] reservation and at Trinity Baptist Church.

January through February 2005 – [the beneficiary] was interim pastor for [the petitioning church].

March through April 30, 2006 – [the beneficiary] was pastor for [the petitioning church].

May through June 2006 – [the beneficiary] ministered in Switzerland.

The petitioner submitted copies of tax documents showing that the petitioning church paid the beneficiary \$13,006 in 2005 and \$7,549 in 2006.

Regarding the beneficiary's work after leaving the petitioning church after April 2006, the broad and general claim that the beneficiary "ministered in Switzerland" in May and June of 2006 is not sufficient to establish qualifying experience during that time. The petitioner submitted various documents from Switzerland, but most of these materials relate to the period before 2004.

The only Swiss documentation from 2006 consists of untranslated copies of German-language bank statements from the beneficiary's Credit Suisse account. Any document containing foreign language submitted to the Service shall be accompanied by a full English language translation which the translator has certified as complete and accurate, and by the translator's certification that he or she is competent to translate

from the foreign language into English. 8 C.F.R. § 103.2(b)(3). The petitioner has, for some reason, highlighted several debits from that account (identifiable as debits because each number corresponds with a simultaneous reduction in what appears to be the beneficiary's bank balance). The petitioner has not explained how or why withdrawals from the beneficiary's bank account demonstrate continuous employment as a religious worker. The statements show regular monthly deposits from *Verein Christlicher Treffpunkt z.Hd.*, about which the petitioner provided no information in response to the RFE.

A Certificate of Ordination shows that the Remnant Mission Church, Los Angeles, California, ordained the beneficiary on May 15, 2003. The record does not indicate that the Remnant Mission Church is in any way affiliated with the Southern Baptist Convention. Similarly, because the petitioner provided no information about the beneficiary's work in Switzerland in May and June of 2006, there is no evidence that the beneficiary was in any way involved with any Swiss church that is doctrinally affiliated with the Southern Baptist Convention.

The director denied the petition on April 17, 2007, stating that the petitioner had not provided any corroborating evidence or letters from Trinity Baptist Church or the beneficiary's "ministry in Switzerland. The beneficiary's activities in Switzerland are never explained." The director determined "the petitioner's evidence regarding the beneficiary's work history is inadequate," and therefore "the evidence is insufficient to establish that the beneficiary has been performing full-time work as a pastor for the two-year period immediately preceding the filing of the petition." The director also found "the petitioner has not established that the beneficiary has been a member of the same denomination as the organization seeking the beneficiary's services for at least the two years immediately preceding the filing of the petition."

On appeal, the petitioner submits information about "the Christian Meeting Point Zug [REDACTED] which is a "former warehouse . . . completely refurbished in order to host Sunday Services." This institution is, evidently, the source of the regular monthly deposits into the beneficiary's bank account mentioned above. While this answers some questions, it remains that the beneficiary received such deposits throughout 2004 and 2005, when he was known to be in the United States. Therefore, these regular deposits cannot be salary payments for work performed in Switzerland. A newsletter published by the petitioner's family indicates that, after he returned to Switzerland from Arizona, he "touch[ed] base with the Christian Meeting Point of Zug" and "join[ed] them at their yearly retreat."

A May 17, 2004 letter from [REDACTED] of the Christian Meeting Point Zug indicates that the beneficiary and his family "attended our church until June 2001, when we sent them . . . to Globe/USA, to work among the Apache people. While with us in Switzerland the whole family was engaged in church work."

As noted previously, the petitioner has shown that the Christian Meeting Point Zug made regular deposits into the beneficiary's Credit Suisse account. The most recent documented deposit was June 15, 2006, coincidentally the petition's filing date. The deposits were in the amount of "1,000.00" per month. The bank statements do not appear to identify the currency. Assuming (because the bank is Swiss) that the deposits

were in Swiss Francs, then the beneficiary received the equivalent of about \$850 in United States currency per month.¹

The record does not explain why the beneficiary received these payments. They may well have been in payment for services rendered, but the record does not establish as much. Furthermore, the minimal information about the beneficiary's work for the Swiss church does not indicate that the church ever employed the beneficiary as a pastor or minister.

Similarly, a November 21, 2003 letter from [REDACTED] Senior Pastor of Trinity Baptist Church, does not show that that church sought the beneficiary's services as a pastor or minister. [REDACTED] stated that the beneficiary's contributions lay "in the area of literature distribution, drug and alcohol counseling, and youth outreach." [REDACTED] referred repeatedly to "ministry," but only in the generic sense of church-provided services rather than more specifically the duties of clergy. The petitioner, on appeal, asserts: [REDACTED] [REDACTED] is no longer with Trinity Baptist Church consequently little information is available." The petitioner does not explain why [REDACTED] would be the only potential source of information regarding the beneficiary's work for Trinity Baptist Church.

For these reasons, the petitioner has not shown that the beneficiary acted as a minister or pastor for any organization other than the petitioning church during the two years immediately preceding the filing of the petition. Therefore, the petitioner has not established the beneficiary's continuous work in that regard during that qualifying period.

With respect to the issue of religious denomination, the petitioner submits documentation showing that Trinity Baptist Church, like the petitioning church, belongs to the Southern Baptist Convention. The petitioner did not, however, submit any evidence that the church in Switzerland belongs to any denomination that is doctrinally affiliated with the Southern Baptist Convention.

While the record shows that the petitioner has been active with a series of churches in both the United States and his native Switzerland, the petitioner has not provided sufficient information or documentation to establish the continuity of work and denominational membership that the statute and regulations demand. 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.

¹ According to <http://www.xe.com/ucc/convert.cgi>, 1,000 Swiss Francs was equivalent to \$853.726 in United States currency as of September 26, 2007.