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U.S. Citizenship
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OCT 17 2007

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date:
WAC 07 049 53403

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 seeks classification 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 with New Tribes Mission (NTM) Missionary Training Center, Roach, Missouri. The director determined that the petitioner had not established that his position qualifies as a religious occupation.

On appeal, the petitioner submits letters from two NTM officials.

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 issue in this proceeding is whether the petitioner seeks employment 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.

In a letter submitted with the initial filing, [REDACTED] NTM's U.S. Director of Operations and Immigration Administrator, stated that the petitioner is an ordained minister who attended a Bible institute and a missionary training institute in Brazil. Despite the reference to the petitioner's prior ordination, Mr. [REDACTED] does not claim that the petitioner now acts as a minister. Rather, the petitioner "is a self-supported full time missionary." In this letter, Mr. [REDACTED] did not describe the petitioner's duties at NTM, stating only that "[a]ll members are missionaries no matter what their assignment may be for any particular time period."

An unsigned attachment to Mr. [REDACTED] letter lists the petitioner's responsibilities as follows:

- Discipleship of students in the area of teamwork, work ethic, faithfulness, and other qualities of character that [are] important to a missionary whether on the foreign field or at home.
- Serve as a language and culture resource person for the Live Language Practicum
- Serve as a leader in student Fellowship Groups, providing spiritual guidance.
- Special speaker in Chapel sessions
- Oversee students that are assigned to the general maintenance department, giving out work assignments and help teach in any area that the Lord should allow the supervisor to see.
- Provide spiritual counsel and advice to missionaries training for cross-cultural ministry.

On March 19, 2007, the director issued a request for evidence, instructing the petitioner to provide details of his "specific job duties." In response, Mr. [REDACTED] repeated the above list of responsibilities. The petitioner also submitted a separate letter from [REDACTED], Director of [REDACTED]'s Missionary Training Center. Mr. [REDACTED] listed "the various roles [the petitioner performs] and their estimated time frame." Some of the elements cited by Mr. [REDACTED] do not appear in Mr. [REDACTED]'s list at all. Mr. [REDACTED] listed the following functions:

Language and Culture Resource person: Approximately 4 to 6 hours daily during the 6 week practicum that takes place once in the Spring and once in the Fall. During this time, [the petitioner] uses his Portuguese to enable students to learn the process of language acquisition.

General Maintenance: This is 8 hours daily during the normal work week. Various responsibilities would be maintenance and repair of the tools and equipment of the school. He is the campus Locksmith and Machinist and has oversight of the Machine Shop. He guides and assists students in projects [such as] painting, carpentry repair, and housing renovations for all areas of the campus.

Campus Ministries: Part of the students' training involves a Campus Ministry assignment where they participate in the upkeep of the campus. He works directly with the students who are assigned to him. Part of his ministry is to counsel and provide instruction in areas relating

to missionary service overseas, [such as] teamwork, work ethic, faithfulness, etc. This instruction is done on a formal level during the Language and Culture practicum, but also informally in one on one interaction with the student. It would not be possible to put this into a "time frame" situation, but [it] is done throughout the day and evening.

Course Involvement: [The petitioner] trains and prepares new teachers in the language and culture learning process. He also is a resource person to the course director and is on call to help with class discussions and preparations as needed.

The director denied the petition, stating "the petitioner has not established that the duties of the beneficiary's prospective occupation relate to a traditional religious function." The director noted that 8 C.F.R. § 204.5(m)(2) specifically excludes "maintenance workers" from the list of qualifying religious occupations.

On appeal, the petitioner submits new letters from Mr. [REDACTED] and Mr. [REDACTED]. Mr. [REDACTED] states that the petitioner's maintenance responsibilities "must be understood in the context of our training program," and that students training to be missionaries "in very remote parts of the world" are learning "practical skills" from the petitioner. Mr. [REDACTED] letter contains similar assertions. We do not find these arguments to be particularly persuasive. A missionary in "very remote parts of the world" might need the "practical skills" taught by the petitioner. A person visiting those same areas for secular purposes, however, might require the same skills. A person teaching such skills is not a religious worker simply by virtue of the fact that his or her pupils have a religious motivation for traveling to the remote areas in question.

It remains that the petitioner works eight hours a day for NTM performing "maintenance and repair of the tools and equipment of the school" and serving as a "Locksmith" and "Machinist." Regardless of the presence of an unspecified number of trainees, the primary result of the petitioner's work is not missionary training, but the actual maintenance, upkeep and repair of NTM's Missionary Training Center. The petitioner has not shown how his duties would *not* make him a "maintenance worker."

Mr. [REDACTED] asserts "[a]ll of our training staff . . . are qualified ordained ministers," but it does not follow that the petitioner is working in the capacity of a minister. We do not hold that once an alien has been ordained as a minister, he or she qualifies for special immigrant status regardless of the nature of his duties. Pursuant to 8 C.F.R. § 204.5(m)(2), for an alien to qualify as a minister, there must be a reasonable connection between the activities performed and the religious calling of the minister. The petitioner has not demonstrated a reasonable connection in this instance.

As for the petitioner's less frequent work as a "Language and Culture Resource person," we note that Mr. [REDACTED] and Mr. [REDACTED] never claimed that the petitioner is a language *teacher* as such. Rather, he helps students with "language acquisition" in some unspecified manner. This occasional work appears to have more to do with the petitioner's native fluency in Portuguese than any inherently religious duty.

For the reasons discussed above, we affirm the director's finding that the petitioner has not shown that his proposed employment at NTM constitutes a qualifying religious occupation. 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.