

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

C1

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **MAR 01 2011**

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:

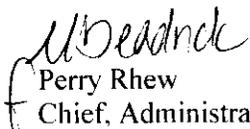
[REDACTED]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a congregation of Dominican sisters. 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 pastoral assistant/worship coordinator. The director determined that the petitioner had not established that the position qualifies as that of a religious occupation.

On appeal, the petitioner asserts that the director's denial "is based on an erroneous conclusion of fact." The petitioner submits a letter and additional documentation in support of the appeal.

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 September 30, 2012, 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 September 30, 2012, 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 presented on appeal is whether the petitioner has established that the proffered position qualifies as that of a religious occupation. The U.S. Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 204.5(m)(5) defines "religious occupation" as an occupation that meets all of the following requirements:

(A) The duties must primarily relate to a traditional religious function and be recognized as a religious occupation within the denomination.

(B) The duties must be primarily related to, and must clearly involve, inculcating or carrying out the religious creed and beliefs of the denomination.

(C) The duties do not include positions that are primarily administrative or support such as janitors, maintenance workers, clerical employees, fund raisers, persons solely involved in the solicitation of donations, or similar positions, although limited administrative duties that are only incidental to religious functions are permissible.

(D) Religious study or training for religious work does not constitute a religious occupation, but a religious worker may pursue study or training incident to status.

A job description submitted with the petitioner stated:

The Pastoral Assistant / Worship Coordinators work together and are responsible for the creation and maintenance of the retreat environment in all areas of the house. They also welcome and assist guests as they arrive and during their stay. They prepare [] retreat materials, religious literature, handle copying and assist with mailings. Maintaining the spiritual reading library, upkeep of all pay roll records, activity logs inventories of food, office and other supplies are also part of their responsibilities.

In a request for evidence (RFE) dated April 15, 2009, the director sought additional information regarding the proffered position. She instructed the petitioner to provide a detailed description of the proposed duties of the position, including a daily and weekly schedule, and to:

Provide evidence that the duties primarily relate to a traditional religious function and the position is recognized as a religious occupation within the denomination. Provide evidence that the duties are primarily related to, and clearly involve, inculcating or carrying out the religious creed and beliefs of the denomination.

In response, the petitioner stated:

Part of the preaching mission of the [redacted] is advanced through the retreat ministry at [redacted]. [The beneficiary] assists [redacted] of the retreat house in organizing, facilitating, and coordinating the various aspects of the retreats and religious activities offered at [redacted] portion of [her] responsibilities requires her to attend to the details of each religious event in order to stay on schedule, provide needed religious materials, and respond appropriately to needs of the participants as they arise. [She] is called on to engage in discussions with retreat participants to determine how their spiritual

needs may be more effectively. She is also responsible to arrange the chapel and worship space in a manner that fosters personal and communal contemplation and prayer. [The beneficiary] attends local meetings on evangelization in order to promote the work of [REDACTED]

The petitioner also stated:

The duty of a Pastoral Assistant and Worship Coordinator is a traditional religious function performed among and by missionaries or spiritual leaders among people devoted to some religious life or commitment. Pastoral duties are found among religious orders, missionaries and those to minister to carry out the mission of a religious organization.

Worship is a religious activity and a worship coordinator is one who arranges organized [sic], implements and/or carries out some form of spiritual activity and commitment. Therefore, a Pastoral Assistant and Worship Coordinator must be performing a religious activity.

The work schedule for the beneficiary indicates that on Monday, she works with the laundry, "provide[s] and arrange[s] prayer and worship environment for each event in [the] chapel, prayer room, and quiet areas;" on Tuesday, she "maintains book[s], periodical[s] and evangelization libraries; compiles maintenance work orders, food, office and household inventories/logs;" on Thursday, she "order[s] for food service; check dietary set-up; assist director as needed; collect and log payroll sheets;" on Friday she "cop[ies], distribut[es] worship materials and handouts and for retreat weekends" and "welcome[s and provides] pastoral assistance for retreat guests;" on Saturday she "work[s] with food service and house staff as needed; pastoral assistance for retreatants;" and on Sunday she "work[s] with food service and house staff as needed; assist[s] at liturgy" and "close[s] all areas of the house." The petitioner also provided a copy of the beneficiary's IRS Form 1040, U.S. Individual Income Tax Return, for 2006 and 2007, on which she identified herself as a housekeeper.

In denying the petition, the director determined that the duties of the position are "essentially 'secular' rather than relating to a traditional religious function. The petitioner did not submit evidence that the position is recognized as a religious occupation related to a traditional function in this denomination." On appeal, the petitioner asserts that "[t]he primary responsibilities of this position fall within the religious context of evangelization which has the specific objective of teaching and carrying out the fundamental tenets of the Roman Catholic faith."

The petitioner further stated:

The mission of [REDACTED] is actualized through a variety of religious (Roman Catholic) based retreats, programs, and events . . . Each retreat is unique with its own spiritual theme, faith teaching, and worship format. The various activities are accomplished through the collaborative efforts of a team of

staff members with diverse skills and multiple responsibilities. The individual nature of each retreat/program requires that the pastoral ministry team craft each event so as to convey the specific teachings of faith intended for that event. The pastoral ministry team must also be prepared to respond to the personal and spiritual needs of the women who participate in the event as they may arise. The team members whose is at the heart of the evangelization (i.e. traditional religious function and purpose), essential to the practice and enculturation of Roman Catholic teachings consist of the Director, Retreat Presenter (priest, religious sister, or layperson), and Pastoral Assistant & Worship Coordinator.

[The beneficiary] participates as a member of this team as Pastoral Assistant and Worship Coordinator, and shares responsibility for the spiritual care and formation of the retreatants and program participants under the leadership of Director . . . and in collaboration with the retreat presenter . . . The religious occupations of Pastoral Assistant and Worship Coordinator are well established within the practices of the Roman Catholic Church and are integral and necessary positions within the context of retreat ministry. The religious work of the [redacted] accomplished, in part, through its retreat ministry at [redacted] could not be done without the particular skills and talents provided by the Pastoral Assistant and Worship Coordinator . . . Pastor care and worship are at the heart of the communal religious life and public ministry (religious work) of [redacted]. Currently, sixty-one (61) pastoral ministers (religious sisters and one lay person [sic] and fifty-one (51) worship coordinators (religious sisters and lay persons) serve the mission of the [redacted] in a variety of ministry settings across the United States.

The petitioner also states:

Communal prayer and liturgical services are core components of evangelization and an essential part of each program presented at [redacted] . . . Prayer and worship frame the entire retreat experience-opening the morning and closing the evening. As Worship Coordinator and member of the pastoral team, [the beneficiary] contributes to the planning and enacting of the prayer experience. The format and content of prayer rituals must conform to the tenets of prayer and worship articulated by the norms of the Roman Catholic Church . . . The content, ritual, and symbolism of each service are shaped to support and foster spiritual growth and deepening of faith and discipleship in Jesus Christ within those who participate.

Nonetheless, the petitioner has submitted insufficient documentation to establish that the duties as outlined in the beneficiary's work schedule relate to a traditional religious function. As shown in the schedule, the beneficiary' consist of arranging "the worship environment," maintaining the library, compiling maintenance work orders and inventories/logs, ordering for food service,

collecting and logging payroll sheets, copying and distributing worship materials and handouts, and working with food service and house staff. While the schedule indicates that on Thursdays, the beneficiary assists the director as needed and provides pastoral assistance to guests on the weekends, the record is not clear as to what these duties entail. The record does not clearly establish that the duties of the proffered position primarily relate, and clearly involve, inculcating or carrying out the religious creed and beliefs of the denomination as required by the above-cited regulation.

Accordingly, the petitioner has failed to establish that the proffered position qualifies as that of a religious worker as that term is defined by the regulation.

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. Here, that burden has not been met. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.