

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy  
**PUBLIC COPY**

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

[Redacted]

C<sub>1</sub>

DATE: JUL 24 2012 OFFICE: CALIFORNIA SERVICE CENTER [Redacted]

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)

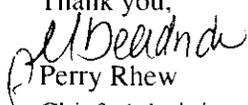
ON BEHALF OF PETITIONER:

[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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to 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 Director, California Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will dismiss the appeal.

The petitioner is a 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 senior pastor. The director determined that the petitioner had failed to establish that it was a bona fide religious organization because it did not appear to be operating during a U.S. Citizenship and Immigration Services (USCIS) site visit in the capacity claimed on the petition.

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 director erred in determining that the petitioner failed to establish that it is a bona fide religious organization operating in the capacity claimed on the petition.

The USCIS regulation at 8 C.F.R. § 204.5(m)(12) describes USCIS site visits:

The supporting evidence submitted may be verified by USCIS through any means determined appropriate by USCIS, up to and including an on-site inspection of the

petitioning organization. The inspection may include a tour of the organization's facilities, an interview with the organization's officials, a review of selected organization records relating to compliance with immigration laws and regulations, and an interview with any other individuals or review of any other records that the USCIS considers pertinent to the integrity of the organization. An inspection may include the organization headquarters, satellite locations, or the work locations planned for the applicable employee. If USCIS decides to conduct a pre-approval inspection, satisfactory completion of such inspection will be a condition for approval of any petition.

The director noted in her decision that USCIS had conducted two site checks at the petitioner's address listed on the petition [REDACTED] and at the address of the beneficiary's intended employment on the petition [REDACTED]. USCIS visited both locations on September 13, 2010 and November 11, 2010.

The director noted that the Chickfield Court location appeared to be a single family dwelling, showing no indication of any religious affiliation or activities. The director highlighted that USCIS found signs on the property indicating that the house was for sale, that a neighbor had told USCIS that he/she had not seen the residents for some time and had never observed anything showing that the house was used for a business or for an organization, and that no one was at home during either of the two site visits. Thus, USCIS was unable to confirm the existence of the church at that location.

With regard to the [REDACTED] location, the director noted that USCIS was also unable to confirm the existence of a religious organization there. USCIS found that there was no signage with the petitioner's name on it, that all of the doors were locked, and there was a for sale sign in front of the building. During the site visits, USCIS found that the building appeared to be operating as a religious organization, but that the buildings to the right and to the left of it also had for sale signs on them and that there were no other businesses in the vicinity. USCIS was not able to gain access to the building or to make contact with the signatory, a management representative, the beneficiary, or any neighbors. Thus, USCIS was unable to confirm the existence of the church at that location. Accordingly, USCIS concluded that the site visits were unsuccessful and that the petitioner had failed the USCIS compliance review verification.

On appeal, counsel asserts that there was some confusion and inconsistencies in the record regarding the location of the petitioner's church. Counsel states that the [REDACTED] location is the address of the beneficiary's home, which he has also used as a home office to conduct church activities. Counsel contends that the beneficiary's home was on the market at the time of the site visits, but that he has since taken it off of the market. With regard to the [REDACTED] location, counsel states that the petitioner's church operated there from April of 2009 until June of 2010 when it moved to a separate location and leased space from the Canzion Institute [REDACTED]. The petitioner's response to the director's May 27, 2010 Request for Evidence (RFE) was submitted on July 26, 2010, at least one month subsequent to the petitioner's

move to the [REDACTED] location. The AAO finds that the petitioner failed to indicate a move or change of physical location of operations in its RFE response. Counsel apologizes for any confusion that the petitioner may have caused USCIS regarding its addresses and states that the petitioner has done its best to comply with all requests for information from USCIS.

Regarding the address of record, the petitioner submits copies of the beneficiary's deed of trust for the [REDACTED] property and a signed letter from realtor [REDACTED] of Re/Max dated April 21, 2011 indicating that the beneficiary was now taking this property off of the market. The AAO finds the letter from [REDACTED] not to be persuasive evidence regarding the petitioner's address of record, as it was written seven days after the director issued her decision denying the petition.

Regarding the beneficiary's actual work location, the petitioner submitted a signed letter from administrator [REDACTED] of the Canzion Institute of Music dated April 26, 2011 indicating that the petitioner's church had leased their space at the [REDACTED] location in 2009 and 2010 but no contemporaneous evidence to support the claim. The petitioner also submitted receipts of payments made by the petitioner to lease space from Iglesia Evangelica Cristo de Poder Inc. [REDACTED] [REDACTED] from June 13, 2010 to April 15, 2011, and copies of two signed leases for the petitioner's church of the [REDACTED] location between June 13, 2010 and April 14, 2012.

Even if the petitioner did change the location of its church operations to the [REDACTED] address in June of 2010, it had a duty to inform USCIS of any change of address. The petitioner has submitted dozens of different forms of evidence all indicating that it was instead operating its church at the Chickfield Court location. The AAO finds that USCIS accordingly conducted the site visits at the correct locations based upon the information that the petitioner had provided on the petition and throughout the record of proceeding.

The petitioner is required to attest to the specific location of the beneficiary's proposed employment. 8 C.F.R. § 204.5(m)(7)(viii). Satisfactory completion of a site visit is a condition for approval. 8 C.F.R. § 204.5(m)(12). Although the record indicates that the petitioner's mailing address had not changed, the location at which the petitioner indicated that the beneficiary would actually be working could not be verified and, on appeal, was determined to have changed without any notice to USCIS.

Accordingly, the AAO finds that the director did not err in finding that the petitioner failed to meet its burden of proof by establishing that it was a bona fide nonprofit religious organization prior to and throughout the two-year qualifying period before 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 met that burden. Accordingly, the AAO will dismiss the appeal.

**ORDER:** The appeal is dismissed.