

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,

Date: **JUL 30 2012** Office: CALIFORNIA SERVICE CENTER

FILE: [REDACTED]  
[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:

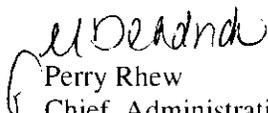
[REDACTED]

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 petitioner appealed the decision to the Administrative Appeals Office (AAO). The AAO remanded the matter to the California Service Center for consideration under new regulations. The director again denied the petition and, following the AAO's instructions, certified the decision to the AAO for review. The AAO will affirm the director's certified decision.

The petitioner is an individual who 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 minister. The director determined that the petitioner was unable to complete a U.S. Citizenship and Immigration Services (USCIS) pre-approval inspection satisfactorily, thus failing to establish the petitioner's actual and intended employment and the religious activities of his prospective employer.

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 is whether the petitioner's intended employer has satisfactorily completed a USCIS pre-approval inspection, thus evidencing that the employer was operating in the capacity claimed on the petition.

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

*Inspections, evaluations, verifications, and compliance reviews.* The supporting evidence submitted may be verified by [U.S. Citizenship and Immigration Services] 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.

In her November 16, 2011 certified decision denying the petition, the director notes that a USCIS inspector conducted site visits to the petitioner's work location ( [REDACTED] ) on September 17, 2011 and October 1, 2011. The director states that, both times, the USCIS inspector found the location to be locked without anyone inside. The director notes that the USCIS inspector conducted a phone interview with [REDACTED] of the petitioner's church and with the petitioner on September 20, 2011 and that the USCIS inspector had requested the submission of a copy of the petitioner's most recent Internal Revenue Service (IRS) Form W-2 evidencing his annual salary of \$30,000.00 via fax. The director stated that the petitioner had failed to submit the requested Form W-2.

The director concluded that, based upon the two USCIS site visits to the petitioner's work location during which no one was present and due to the petitioner's failure to submit a copy of a recent Form W-2, USCIS was unable to verify the petitioner's activities and the petitioner's self-employment. Accordingly, the director found that the petitioner had failed to complete the requisite pre-approval inspection satisfactorily and that the petition must be denied.

On December 5, 2011, counsel for the petitioner submitted a brief and supporting documents. Counsel asserts that the nature of the petitioner's work requires him to travel from place to place and to make television and radio appearances. Counsel claims that the petitioner was engaged in religious activities offsite during the times of the two USCIS visits, September 17, 2011 and October 1, 2011.

The petitioner submits copies of two brochures. The first brochure reflects that he and [REDACTED] were leading a Signs & Wonders Miracle Crusade entitled [REDACTED] from September 16<sup>th</sup> to September 18<sup>th</sup> of an unmentioned year starting at 8:00 PM each night at [REDACTED]. The AAO finds that this brochure reflects that the beneficiary's activities were only in the evening, were on the same street and very close to his work location, and were during an unnamed year. The AAO does not find this brochure

to constitute persuasive evidence of the beneficiary's inability to be present at his work location during the September 17, 2011 USCIS site visit.

The second brochure reflects that the beneficiary was leading a Signs & Wonders Miracle Crusade on [REDACTED] of an unmentioned year starting at 7:00 PM each night at [REDACTED]. The AAO finds that this brochure would constitute persuasive evidence of the beneficiary's inability to be present at his work location during the October 1, 2011 USCIS site visit, but that the brochure does not state the year in which this event purportedly took place. Accordingly, the AAO finds that the petitioner has failed to complete a USCIS pre-approval inspection satisfactorily pursuant to 8 C.F.R. § 204.5(m)(12), thus evidencing that his church was operating in the capacity claimed on the petition.

The AAO will affirm the certified denial for the above stated reasons. 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. The petitioner has not sustained that burden.

**ORDER:** The director's decision of November 16, 2011 is affirmed. The petition is denied.