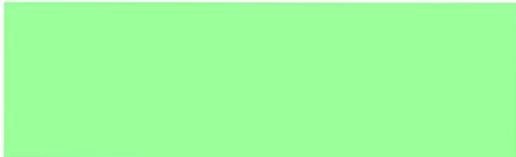


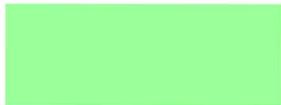


U.S. Citizenship  
and Immigration  
Services

(b)(6)



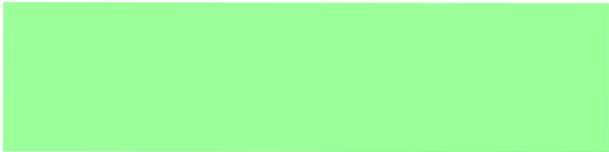
DATE: **AUG 16 2013** OFFICE: CALIFORNIA SERVICE CENTER



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:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, approved the employment-based immigrant visa petition, but subsequently revoked that approval on notice under the regulation at 8 C.F.R. § 205.2. The petitioner appealed the revocation to the AAO, which remanded the matter to the director. The director revoked the approval a second time and certified the decision to the AAO. The AAO affirmed the certified decision. The petitioner has since filed three motions to reopen and reconsider. The AAO granted the first such motion and affirmed the decision, and dismissed the second motion. The matter is now before the AAO on the third motion. The AAO will dismiss the motion.

The petitioner is an evangelical Christian 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 pastoral assistant and religious instructor. The director determined that the petitioner had not established that it seeks to employ the beneficiary in a qualifying religious occupation. The AAO made an additional determination that the petitioner had not established that the beneficiary had the required two years of continuous, qualifying work experience immediately preceding the filing date of the petition. One factor underlying both determinations was that the petitioner, in a separate petition, referred to the beneficiary as a “janitor” with maintenance and custodial duties.

On motion, the petitioner submits a brief from counsel and various exhibits, most of them copies of previous submissions.

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—

\* \* \*

(III) before September 30, 2015, 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).

A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services (USCIS) policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

The petitioner initially filed the Form I-360 petition on March 2, 2006. The director issued the two revocation notices on January 18, 2008, and March 3, 2010. The AAO issued its previous decisions on December 16, 2008; June 3, 2011; January 3, 2012; and October 17, 2012. Those prior decisions contain further details regarding the earlier chronology of the proceeding.

Over the course of three motions to reopen and reconsider, the petitioner has established a pattern of stating that the matter requires reconsideration because the previous decision paid insufficient attention to submitted evidence. In prior decisions, the AAO has already advised the petitioner and counsel that a motion to reconsider is not a forum for the petitioner to seek repeated readjudications of the petition until an approval results. Many of counsel's assertions on motion repeat previous claims, sometimes word for word, such as the claim that the beneficiary's "stellar and imposition [*sic*] academic and occupational achievements in the complex study of Theology severely undermine the USCIS' contention that the instant petition is that of a janitor."

The bulk of the beneficiary's academic and occupational documentation traces back to a single source, [REDACTED]. The principal exception is a copy of a diploma from the [REDACTED] an unaccredited school in [REDACTED] the diploma for which includes a misspelling of the institution's own name (as ' [REDACTED] [REDACTED] ). The beneficiary's claimed studies there (apparently conducted online, given the distance from California to Indiana) did not begin until six months after the petition's filing date, and therefore his subsequent diploma would not be evidence of eligibility at the time of filing even if the petitioner had established that [REDACTED] was a recognized, accredited academic institution. *See* 8 C.F.R. §§ 103.2(b)(1) and (12). *See also Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971).

Counsel has maintained that the beneficiary would not have gone to the effort of accumulating this "stellar" training and experience merely to work as a janitor, but the record fails to corroborate counsel's assessment of that training and experience. It remains that the petitioner's own description of the beneficiary's job title changed once the beneficiary sought immigration benefits.

Prior decisions have raised specific points about inconsistencies or gaps in the petitioner's evidence. The petitioner, in subsequent motions, has failed to address many of those points. For example, in its October 2012 decision, the AAO noted the petitioner's submission of "a November 26, 2007 certificate from the [REDACTED] . . . stating . . . that its rules and regulations define the position as 'a leader who has the needed requirements. . .'" The AAO noted

that the petitioner had not specified the “rules and regulations” or identified “the needed requirements.” In subsequent filings, the petitioner has not addressed this omission except to assert that USCIS regulations do not specifically require the submission of that information.

The petitioner has asserted that the actions of another attorney lie at the center of the assertion that the beneficiary worked as a janitor for the petitioner. In its October 2011 decision, the AAO stated that the petitioner had submitted no statement from that attorney to corroborate this key claim. Subsequently, rather than address this issue, counsel has simply repeated the assertion that the petitioner has submitted evidence that the beneficiary is a pastoral assistant rather than a janitor.

In a similar manner, the petitioner has not addressed credibility issues, such as its filing of 11 petitions to fill the same position offered to the beneficiary. (Most of the beneficiaries of those other petitions have since left the church, leading to expressed concerns about the intent behind the filing of those petitions.)

In the present motion, as in the previous motion, counsel cites invoices for plumbing and air conditioning repair in support of the claim that the petitioner has no need for a full-time janitor. This assertion raises the question of why an employee list exists on church letterhead that not only identifies the beneficiary as a janitor, but provides a description of a job which counsel implies does not exist at all.

The petitioner’s latest motion includes copies of previously submitted materials, as well as copies of untranslated church bulletins dated 2004 and 2005. Copies of prior submissions are clearly not “new” evidence, and the 2004-2005 bulletins purportedly existed prior to the filing of the petition, but the petitioner did not submit them until the latest motion. Without certified English translations, the bulletins have no evidentiary value. *See* 8 C.F.R. § 103.2(b)(3).

The present motion adds little to the record, consisting instead of repetition of prior claims and resubmission of evidence already deemed insufficient. The latest motion does not meet the requirements of a motion to reopen or a motion to reconsider, and the USCIS regulation at 8 C.F.R. § 103.5(a)(4) therefore requires dismissal of the motion.

The AAO will dismiss the motion for the above stated reasons, with each considered as an independent and alternate basis for the decision. In visa petition proceedings, it is the petitioner’s burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, the petitioner has not met that burden.

**ORDER:** The motions are dismissed.