(b)(6)

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

Date: MAY 14 2013 Office: CALIFORNIA SERVICE CENTER FILE:

IN RE: Petitioner:
Beneficiary:

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 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,

Ron Rosenberg
Acting 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 Christian educational organization run by members of the denomination. 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 bible/Christian media instructor. The director determined that the petitioner had not established its ability to compensate the beneficiary. The director also determined that the petitioner had not established that the beneficiary had the requisite two years of continuous, lawful, qualifying work experience immediately preceding the filing date of the petition.

On appeal, the petitioner submits a letter from the petitioner, a copy of a letter published on the website of the and an index of evidence previously submitted in support of the petition. Additionally the petitioner submits a letter from counsel, a copy of the beneficiary's Form DS-156 Nonimmigrant Visa Application with supporting letters from the petitioner and the Virginia, and copies of documents already in the record.

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 United States Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 204.5(m)(10) states:

> *Evidence relating to compensation.* Initial evidence must include verifiable evidence of how the petitioner intends to compensate the alien. Such compensation may include salaried or non-salaried compensation. This evidence may include past evidence of compensation for similar positions; budgets showing monies set aside for salaries, leases, etc.; verifiable documentation that room and board will be provided; or other evidence acceptable to USCIS. If IRS documentation, such as IRS Form W-2 or certified tax returns, is available, it must be provided. If IRS documentation is not available, an explanation for its absence must be provided, along with comparable, verifiable documentation.

The Form I-360 petition was filed on November 22, 2010. On the petition, the petitioner described the beneficiary's proposed compensation as follows:

> He will be receiving a stipend ($9823/year) as a full-time worker. His housing and utilities will be provided by . He will also receive other benefits such as medical expenses and seminar expenses.

Accompanying the petition, the petitioner submitted a copy of its 2008 Form 990 tax return, which indicated that the organization received $2,652,572 in revenue during 2008, paid $1,092,750 in salaries, compensation and benefits, and had net assets of $6,968,142. The petitioner also submitted copies of the beneficiary's Forms W-2 for 2008 and 2009, which indicated that he received $1,705.40 and $9,823.29 in those years respectively. On each of the Forms W-2, the beneficiary's address was listed as Virginia, also listed as the petitioner's address on the petition. Additionally, the petitioner submitted two ' spreadsheets, purportedly showing "monies set aside for salaries," and "past evidence of compensation for similar positions."

The petitioner also submitted a copy of its "Staff Policy and Information Manual," which stated that the remuneration provided "should allow staff members to live adequately, but not lavishly," and that all staff members are paid at the same rate and given food allowances for themselves and family members. The manual also included statements that the petitioner assigns on-campus housing on the basis of need, and that utilities are provided to staff members as part of their benefit package.

On March 22, 2011, USCIS issued a Request for Evidence (RFE), in part instructing the petitioner to submit additional evidence of its ability to compensate the beneficiary as required under 8 C.F.R. §204.5(m)(10). USCIS noted that, although the petitioner referred to the submitted spreadsheets as "budgets," the nature of the documents was unclear, as the entries were characterized as "tithes." USCIS also noted that the petitioner had not submitted documentary financial evidence in support of the numbers on the spreadsheets. The notice requested additional past evidence of compensation

including Internal Revenue Service (IRS) documentation, and verifiable documentation that room and board would be provided.

In a letter responding to the notice, the petitioner stated:

> As noted in the previously submitted "Staff Policy and Information Manual," all staff members are paid the same, with no differentiation between levels, position held, or years of service. It's our belief that remuneration, or what we call "stipend," should allow staff members to live adequately, but not lavishly. They should be able to enjoy the privilege of sacrificially giving to others. Staff members are paid a food allowance for themselves and their dependents, up to a maximum of five food allowances per family.
>
> Mr. will be compensated at an annual rate of $9,823 plus medical, optical, and dental insurance. Additionally, he will be provided with housing and utilities at no cost to him. These additional benefits have an additional monetary value of approximately $6,900 per year.

The petitioner submitted a copy of its 2009 Form 990 tax return, which indicated that the organization received $2,298,004 in revenue during 2009, paid $1,100,796 in salaries, compensation and benefits, and had net assets of $6,745,145. The petitioner submitted a copy of its 2010 Form W-3, Transmittal of Wage and Tax Statements, indicating that it filed 61 Forms W-2 for the year and paid a total of $543,932.65 in wages and other compensation for the year. The petitioner also submitted copies of bank statements for January to March of 2011 from an account at and two accounts at The first account listed ending balances of $77,861.45, $77,897.63, and $77,926.38 respectively, the second account listed balances of $215,741.03, $215,905.77, and $216,082.41, and the account listed balances of $187,402.29, $163,466.37, and $215,024.99.

As additional evidence of past compensation, the petitioner submitted a copy of the beneficiary's 2010 Form W-2, indicating that he received $8,777.19 from the petitioner during that year, as well as the beneficiary's official IRS Tax Return Transcripts for the years 2008 to 2010. The 2008 transcript indicated that no return was filed for that year, and the 2009 and 2010 transcripts reported total income matching the amounts listed on the beneficiary's Forms W-2 from the petitioner. In an accompanying "Exhibit Index," the petitioner stated: "Taxes not filed in 2008 because income was not sufficient since Mr. only worked for 2 months (November and December)." The petitioner also submitted copies of the beneficiary's biweekly paystubs from November 1, 2008 to April 2, 2011.

Regarding its ability to provide non-salaried compensation, the petitioner submitted a copy of a deed of trust showing ownership of its property in Virginia, as well as certificates of occupancy for the property. The petitioner submitted photographs of the property and facilities, including a photograph of the house purportedly provided to the beneficiary with a notation that "utilities are paid by the institution." A house number "26" could be seen in the photograph. The

petitioner also submitted copies of various bills from from February and March of 2011. Some of the bills included spreadsheets of various facilities on the petitioner's property. On one of the spreadsheets, the beneficiary was identified as a "tenant" of

On June 2, 2011, the director denied the petition, in part finding that the petitioner failed to submit sufficient evidence of how the petitioner intends to compensate the beneficiary. The director noted that, while the petitioner submitted some of the requested evidence such as bank statements, employment tax returns, and tax return transcripts, the petitioner failed to submit budgets and wage and income transcripts as instructed by the RFE. The director also found that the petitioner failed to resolve inconsistencies between its statement that all staff members receive the same stipend, and information on the submitted 2009 Form 990, which indicates that some board members/staff received higher amounts than the beneficiary.

On appeal, the petitioner asserts that it has submitted sufficient evidence to comply with the requirements of 8 C.F.R. § 204.5(m)(10), arguing that "the items listed as examples of documents that the employer can submit to evidence compensation, is followed by an '***or***' and not with an '***and***.'" (Emphasis in original.) The petitioner states:

> The lack of a budget showing money set aside for similar positions is not fatal to the application. This is so because has submitted other documentation to show how it intends to compensate Mr. and its ability to pay such compensation. also submitted evidence showing that has compensated Mr for the last two years.

Regarding the inconsistency discussed by the director, the petitioner states the following:

> Although it is true that some people get paid in addition to their stipend, this is in no way an "inconsistency" or makes our compensation system "not true". The Staff Policy and Information Manual makes clear that reimburses staff and officers for legitimate expenses such as travel, lodging, and other ministry-related expenses. The end of the year total compensation then, varies from member to member, depending on their dependents, and also depending on other reimbursable expenses.

The AAO agrees with the petitioner that it has submitted sufficient evidence to establish its ability to provide the proffered compensation. The regulation at 8 C.F.R. § 204.5(m)(10) provides a list of examples of evidence to establish the ability to compensate, including "past evidence of compensation for similar positions; budgets showing monies set aside for salaries, leases, etc.; verifiable documentation that room and board will be provided; or other evidence acceptable to USCIS." The regulation also requires the petitioner to submit "IRS documentation, such as IRS Form W-2 or certified tax returns," or an explanation for an absence of such documentation. In this instance, the petitioner provided the beneficiary's Forms W-2 and official tax return transcripts, paystubs, bank statements and tax returns for the petitioning organization, and evidence of its ability

to provide non-salaried compensation in the form of housing and utilities. The AAO agrees with the petitioner that the regulation does not specifically require the petitioner to submit either budgets or wage and income transcripts, and the evidence submitted is sufficient to comply with the regulation at 8 C.F.R. § 204.5(m)(10).

Regarding the discrepancy in amounts received by various employees, the AAO finds the petitioner's explanation reasonable and consistent with the evidence submitted. The staff manual indicates that some of the compensation package is affected by number of dependents and that certain expenses, such as moving expenses, are reimbursed by the petitioner.

For the reasons discussed above, the AAO will withdraw the director's findings on this issue.

As an additional ground for denial, the director found that the petitioner had not established that the beneficiary has the requisite two years of continuous, lawful, qualifying work experience immediately preceding the filing of the petition.

The USCIS regulation at 8 C.F.R. § 204.5(m)(4) requires the petitioner to show that the alien has been working as a minister or in a qualifying religious occupation or vocation, either abroad or in lawful immigration status in the United States, continuously for at least the two-year period immediately preceding the filing of the petition. Therefore, the petitioner must establish that the beneficiary was continuously performing qualifying religious work in lawful status throughout the two-year period immediately preceding November 22, 2010. The regulation at 8 C.F.R. § 204.5(m)(4) also sets forth the requirements for an acceptable break in the continuity of an alien's religious work as follows:

> A break in the continuity of the work during the preceding two years will not affect eligibility so long as:
>
> (i) The alien was still employed as a religious worker;
>
> (ii) The break did not exceed two years; and
>
> (iii) The nature of the break was for further religious training or for sabbatical that did not involve unauthorized work in the United States…

The USCIS regulation at 8 C.F.R. § 204.5(m)(11) provides:

> *Evidence relating to the alien's prior employment.* Qualifying prior experience during the two years immediately preceding the petition or preceding any acceptable break in the continuity of the religious work, must have occurred after the age of 14, and if acquired in the United States, must have been authorized under United States immigration law. If the alien was employed in the United States during the two years immediately preceding the filing of the application and:

> (i) Received salaried compensation, the petitioner must submit IRS documentation that the alien received a salary, such as an IRS Form W-2 or certified copies of income tax returns.
>
> (ii) Received non-salaried compensation, the petitioner must submit IRS documentation of the non-salaried compensation if available.
>
> (iii) Received no salary but provided for his or her own support, and provided support for any dependents, the petitioner must show how support was maintained by submitting with the petition additional documents such as audited financial statements, financial institution records, brokerage account statements, trust documents signed by an attorney, or other verifiable evidence acceptable to USCIS.
>
> If the alien was employed outside the United States during such two years, the petitioner must submit comparable evidence of the religious work.

At the time of filing the Form I-360 petition, the petitioner submitted copies of the beneficiary's Forms W-2 for 2008 and 2009, discussed above, showing income received from the petitioner during those years. In a letter accompanying the petition, the petitioner discussed the beneficiary's prospective position, but did not specifically indicate whether he was currently employed by the petitioner, or provide a description of his employment history during the two-year qualifying period immediately preceding the filing of the petition.

In the March 22, 2011 RFE, USCIS requested additional documentation regarding the beneficiary's work history during the qualifying period. The notice specifically instructed the petitioner to submit experience letters from previous and current employers providing detailed information about the work performed by the beneficiary, and to submit evidence of compensation as well as evidence that the beneficiary was employed while in lawful status. The notice also stated:

> Additionally, there were a few break periods in the beneficiary's employment that require explanation as listed below:
>
> -From November 25, 2008 to December 13, 2008 and
> -From June 5, 2010 to July 27, 2010.
>
> Please explain the reason for the break and submit supporting evidence, if any.

In response to the notice, the petitioner submitted evidence of prior compensation, discussed above, including additional Forms W-2, IRS Tax Return Transcripts, and biweekly paystubs dating back to November 1, 2008. A signed letter from the petitioner, submitted in response to the RFE, did not include the detailed information requested in the notice about the beneficiary's work history. The petitioner submitted an unsigned "Detailed Job Description" for the beneficiary which included a

weekly schedule of duties. However, the job description did not indicate the dates of the beneficiary's employment, nor did it indicate whether the schedule and duties listed applied to the beneficiary's past work throughout the qualifying period. Additionally, the petitioner submitted copies of its weekly class schedules for Fall 2010, Spring 2011, and Winter 2011, highlighting the courses purportedly taught by the beneficiary. The petitioner also submitted a copy of the beneficiary's resume.

Regarding the beneficiary's immigration status, the petitioner submitted evidence that the beneficiary entered the United States on October 5, 2008 and several subsequent dates in R-1 nonimmigrant status. According to a copy of the beneficiary's R-1 visa, also submitted in response to the RFE, his R-1 status authorized his employment with the in Virginia.

With regard to the potential breaks in the beneficiary's religious work, a copy of the RFE which was submitted with the petitioner's response contained the following handwritten note next to the dates in question: "Missionary trips abroad. Please see enclosed. Accompanied president Dr. ' The petitioner submitted photocopies of stamps from the beneficiary's passports indicating that he was travelling outside the United States during the dates in question. However, no evidence was submitted in support of the assertions that the beneficiary was performing missionary work and was accompanied by Dr. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

In her June 2, 2011 decision, the director found that the petitioner failed to establish that the beneficiary had the requisite two years of continuous, lawful, qualifying work experience immediately preceding the filing of the petition. The director found that the beneficiary's employment with the petitioning organization constituted unauthorized employment and a failure to maintain his lawful R-1 status, which only authorized his employment with the named employer, Virginia. The director additionally found that the petitioner had not submitted evidence in support of its claims regarding the beneficiary's purported missionary trips during the two periods in question, which the director noted consisted of 23 days and 53 days respectively. Accordingly, the director found that the petitioner failed to establish the continuity of the beneficiary's religious work during the qualifying period.

On appeal, counsel for the petitioner asserts that "the U.S. consulate in South Korea erroneously issued the visa under ' while ' was in fact the R-1 petitioner." Counsel states:

> The confusion seems to stem from the fact that apart from also submitted a letter when the R-1 was applied for. However, 's letter was submitted only for purposes of supporting the affiliation requirement. was

> never intended to be the sponsor. This is clearly supported by the R-1 cover letter and the Nonimmigrant Visa Application.

In support of counsel's assertions, the petitioner submits a copy of the beneficiary's Form DS-156 Nonimmigrant Visa Application and supporting letters from the petitioner and the Virginia, all of which identify as the beneficiary's prospective R-1 employer. Accordingly, the AAO will withdraw the director's finding regarding unauthorized employment and failure to maintain lawful status.

Regarding the continuity of the beneficiary's employment, in a letter submitted on appeal, the petitioner quotes the provision under 8 C.F.R. § 204.5(m)(4) for an acceptable break in the continuity of work and additionally states the following:

> Hartland Institute previously indicated that Mr. was in official missionary trips during these dates. Additionally, we submitted payroll documents for the dates in question showing that Mr. was compensated during these dates. If Mr. was in official business abroad, and was being paid by Hartland Institute for the dates in question, then USCIS' contention that he was not in R-1 status and that his travel abroad broke the continuity of the required two-years is erroneous. ...
>
> The dates in question do not constitute a break of continuous employment and therefore does not interrupt the two-year period in question. Ministers and religious workers travel frequently in official ministry-related trips. These brief trips should not interrupt the continuity of employment.

Although the petitioner characterizes the periods in question as "brief trips," the AAO notes that they comprise over two and a half months of the two-year qualifying period. In addition to requiring that the alien was still employed and that the break did not exceed two years, the regulation at 8 C.F.R. § 204.5(m)(4) requires the petitioner to show that "the nature of the break was for further religious training or for sabbatical that did not involve unauthorized work in the United States." The petitioner does not submit any evidence on appeal in support of the assertion that the beneficiary's trips were "official missionary trips" or "official business abroad." Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165 (citing *Matter of Treasure Craft of California*, 14 I&N Dec. at 190). Accordingly, although the petitioner submitted evidence that the beneficiary was compensated by the petitioner during the periods in question, the AAO disagrees that the petitioner has shown that the beneficiary was continuously engaged in religious work for the petitioner, or that any break in such work would qualify as acceptable under 8 C.F.R. § 204.5(m)(4).

Additionally, the AAO notes that the petitioner has never set forth the exact dates of the beneficiary's employment, nor has it provided a detailed description of the duties performed or terms of employment specific to the beneficiary's past employment during the qualifying period as requested in the RFE.

For the reasons discussed above, the AAO agrees with the director's finding that the petitioner failed to establish the continuity of the beneficiary's qualifying religious work during the two years immediately preceding the filing of the petition.

As an additional matter, the AAO finds that the petitioner failed to establish that it qualifies as a bona fide non-profit religious organization in the United States. The AAO may deny an application or petition that fails to comply with the technical requirements of the law even if the Service Center does not identify all of the grounds for denial in the initial decision. *See Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003); *see also Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004) (noting that the AAO conducts appellate review on a *de novo* basis).

The United States Citizenship and Immigration Service (USCIS) regulation at 8 C.F.R. § 204.5(m)(3) provides that in order to be eligible for classification as a special immigrant religious worker, an alien must be coming to work for a bona fide non-profit religious organization in the United States, or a bona fide organization which is affiliated with the religious denomination in the United States. The regulation at 8 C.F.R. § 204.5(m)(5) states, in pertinent part:

> (5) Definitions. As used in paragraph (m) of this section, the term:
>
> *Bona fide non-profit religious organization in the United States* means a religious organization exempt from taxation as described in section 501(c)(3) of the Internal Revenue Code of 1986, subsequent amendment or equivalent sections of prior enactments of the Internal Revenue Code, and possessing a currently valid determination letter from the IRS confirming such exemption.
>
> *Bona fide organization which is affiliated with the religious denomination* means an organization which is closely associated with the religious denomination and which is exempt from taxation as described in section 501(c)(3) of the Internal Revenue Code of 1986, subsequent amendment or equivalent sections of prior enactments of the Internal Revenue Code and possessing a currently valid determination letter from the IRS confirming such exemption.
>
> *Tax-exempt organization* means an organization that has received a determination letter from the IRS establishing that it, or a group that it belongs to, is exempt from taxation in accordance with sections 501(c)(3) of the Internal Revenue Code . . .

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

> *Evidence relating to the petitioning organization.* A petition shall include the following initial evidence relating to the petitioning organization:

(i) A currently valid determination letter from the Internal Revenue Service (IRS) establishing that the organization is a tax-exempt organization; or

(ii) For a religious organization that is recognized as tax-exempt under a group tax-exemption, a currently valid determination letter from the IRS establishing that the group is tax-exempt; or

(iii) For a bona fide organization that is affiliated with the religious denomination, if the organization was granted tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986, or subsequent amendment or equivalent sections of prior enactments of the Internal Revenue Code, as something other than a religious organization:

(A) A currently valid determination letter from the IRS establishing that the organization is a tax-exempt organization;

(B) Documentation that establishes the religious nature and purpose of the organization, such as a copy of the organizing instrument of the organization that specifies the purposes of the organization;

(C) Organizational literature, such as books, articles, brochures, calendars, flyers and other literature describing the religious purpose and nature of the activities of the organization; and

(D) A religious denomination certification. The religious organization must complete, sign and date a religious denomination certification certifying that the petitioning organization is affiliated with the religious denomination. The certification is to be submitted by the petitioner along with the petition.

Accompanying the Form I-360 petition, the petitioner submitted an June 1, 1984 letter from the IRS confirming that the is a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code. The letter also stated:

> We have further determined that you are not a private foundation within the meaning of section 509(a) of the Code, because you are an organization described in section 170(b)(1)(A)(ii).

Section 170(b)(1)(A)(ii) of the Code refers to educational organizations. While section 170(b)(1)(A)(i) of the Code refers specifically to churches and related organizations, section 170(b)(1)(A)(ii) of the Code has no such limitations. If an organization was granted tax-exempt status under section 501(c)(3) as something other than a religious organization, the regulation at 8 C.F.R. § 204.5(m)(8)(iii) requires additional documents. Although the petitioner has submitted

sufficient documentation to establish sections (A) through (C) of the above-cited regulation, an issue remains with its claimed affiliation with the

The regulation at 8 C.F.R. § 204.5(m)(8)(iii)(D) requires:

> A religious denomination certification. The religious organization must complete, sign and date a religious denomination certification certifying that the petitioning organization is affiliated with the religious denomination. The certification is to be submitted by the petitioner along with the petition.

The petitioner submitted a religious denomination certification signed by who identified himself as a "District Pastor" and identified the attesting organization as a local Virginia. On the certification, Pastor Day attested that the petitioner is affiliated with the denomination of "

In support of the claimed affiliation, submitted two letters, dated June 17, 2008 and November 10, 2010, respectively, in which he states that the petitioner is only "informally affiliated" with the denomination. The letters also state that the petitioner "is not organically owned or operated by the " but "was founded by members of the in 1983, and continues to employ only members of this denomination who are loyal and committed to the message and mission of does not appear to be an official of the headquarters of but rather he is a local pastor of several churches in the district where the petitioner is located. The record contains no evidence of s authority to speak on behalf of the Without further evidence from an official of the or evidence that has the authority to make such representations on behalf of the denominational leadership, the petitioner has failed to establish that it has an actual acknowledged affiliation with the church.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternative basis for the decision. 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.