



U.S. Citizenship  
and Immigration  
Services

(b)(6)

DATE: **OCT 10 2013**

OFFICE: CALIFORNIA SERVICE CENTER

FILE: [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:

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  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, denied the employment-based immigrant visa petition. The Administrative Appeals Office (AAO) dismissed the petitioner's subsequent appeal from that decision. The AAO subsequently moved to reopen the proceeding, and advised the petitioner of additional issues that precluded approval of the petition. The petitioner responded to the notice with additional evidence. The AAO will dismiss the appeal, and the petition will remain denied.

The petitioner is a member church of the Christian Reformed Church in North America (CRC). The petitioner filed the Form I-360 petition on August 27, 2009, seeking 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 an associate pastor. The director denied the petition on May 3, 2010, having determined that the petitioner had not established that the beneficiary had the required two years of continuous, authorized work experience in lawful immigration status immediately preceding the filing date of the petition. The AAO dismissed the petitioner's appeal on April 2, 2012.

On May 1, 2013, the AAO reopened the proceeding under the provisions of the U.S. Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 103.5(a)(5)(ii), advising the petitioner of five additional issues that precluded approval of the petition. Specifically, the AAO advised that the petitioner had not established: (1) the beneficiary's past experience was of a qualifying religious nature; (2) the beneficiary's membership in the petitioner's religious denomination; (3) the beneficiary's ministerial credentials within the petitioner's religious denomination; (4) how the petitioner intends to compensate the beneficiary; and (5) the petitioner's status as an active corporation.

The petitioner submitted a timely response to the AAO's notice, and provided additional evidence. The new evidence adequately addresses and resolves concerns (1), (2), (4), and (5) listed above. Regarding the beneficiary's denominational membership (concern (2) above), despite the fact that during the two-year period prior to filing the beneficiary was a member of an admittedly separate denomination from the petitioner, the petitioner has established that it is of the "same type" of denomination as the beneficiary's prior church and has submitted sufficient documentation that meets the USCIS definition of "religious denomination" at 8 C.F.R. § 204.5(m)(5). The petitioner has not overcome the remaining ground regarding the beneficiary's qualifications as a minister within the CRC.

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, 2015, 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, 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).

The USCIS regulation at 8 C.F.R. § 204.5(m)(5) defines a “Religious worker” as “an individual engaged in and, according to the denomination’s standards, qualified for a religious occupation or vocation, whether or not in a professional capacity, or as a minister.” That regulation also defines “Minister” as a person who:

- (A) Is fully authorized by a religious denomination, and fully trained according to the denomination's standards, to conduct such religious worship and perform other duties usually performed by authorized members of the clergy of that denomination;
- (B) Is not a lay preacher or a person not authorized to perform duties usually performed by clergy;
- (C) Performs activities with a rational relationship to the religious calling of the minister; and
- (D) Works solely as a minister in the United States, which may include administrative duties incidental to the duties of a minister.

The petitioner asserts on the Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant, and in a letter dated August 15, 2009, that the duties of an associate pastor consist of assisting the senior pastor with leading worship services, delivering sermons, instructing Bible study classes, providing religious counseling, congregational visitations, and officiating baptisms, weddings, and funeral services. Accordingly, the activities of the proffered position of associate pastor have a rational relationship to the calling of a minister and fall within that regulatory definition.

Regarding the evidentiary requirements, the USCIS regulation at 8 C.F.R. § 204.5(m)(9) reads as follows:

*Evidence relating to the qualifications of a minister.* If the alien is a minister, the petitioner must submit the following:

- (i) A copy of the alien's certificate of ordination or similar documents reflecting acceptance of the alien's qualifications as a minister in the religious denomination; and
- (ii) Documents reflecting acceptance of the alien's qualifications as a minister in the religious denomination, as well as evidence that the alien has completed any course of prescribed theological education at an accredited theological institution normally required or recognized by that religious denomination, including transcripts, curriculum, and documentation that establishes that the theological institution is accredited by the denomination, or
- (iii) For denominations that do not require a prescribed theological education, evidence of:
  - (A) The denomination's requirements for ordination to minister;
  - (B) The duties allowed to be performed by virtue of ordination;
  - (C) The denomination's levels of ordination, if any; and
  - (D) The alien's completion of the denomination's requirements for ordination.

The petitioner, a [REDACTED] church, has provided evidence of the beneficiary's ordination in the [REDACTED]. In a letter dated June 22, 2013, Rev. [REDACTED] the Korean Ministry Director of the [REDACTED] admitted that the petitioner and [REDACTED] are different denominations; therefore, the beneficiary's ordination in [REDACTED] is not evidence that he was qualified, fully authorized, and fully trained as a minister according to the standards of the [REDACTED] the petitioner's denomination. *See* 8 C.F.R. §§ 204.5(m)(5), (9).

In its May 1, 2013 letter, the AAO notified the petitioner that information contained on [REDACTED]'s website titled the "Check List for Article Eight (Ministry Readiness Profile)" specified the steps necessary for a minister ordained in another denomination to be ordained in [REDACTED]. The AAO found that the petitioner failed to submit documentation from the [REDACTED] to establish that the beneficiary had completed [REDACTED]'s process for ordination or to provide evidence from an authorized official of the petitioner's denomination to explain that no such process is necessary. In his June 22, 2013 letter, Rev. [REDACTED] clarifies that the beneficiary would be employed under the standards required for a commissioned pastor and not as minister of the Word.<sup>1</sup> The petitioner submits supporting

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<sup>1</sup> According to the petitioner's *Church Order*, Article 8 applies to a minister of the Word, not to commissioned pastors.

information about the [REDACTED]'s standards and requirements, including printouts from its website at [www.crcna.org](http://www.crcna.org). Specifically, the petitioner submits a copy of [REDACTED]'s Church Order which, on page 11, lists the "OFFICES OF THE CHURCH" as "minister of the Word, elder, deacon, and commissioned pastor." According to [REDACTED]'s website, the [REDACTED] has "two types of pastoral ordination." The first type, the "minister of the Word," describes "those ordained to denomination wide ministry," while the second type, "commissioned pastor," refers to those with "a localized ordination."<sup>2</sup>

Regarding the beneficiary's qualifications, Rev. Park states:

**[The Beneficiary's] Qualifications as a Minister**

[The beneficiary's] qualifications were presented to the Korean Ministry classis in 2009 and we were in the early stages of processing [the beneficiary's] candidacy as an Associate Pastor but Rev. [REDACTED] the Senior Pastor of the [petitioning] Church, advised us that [the beneficiary's] religious worker petition was denied. Therefore, I decided not to proceed with [the beneficiary's] application for Associate Pastor until further notification.

Thus, it appears that the beneficiary's candidacy as a [REDACTED] commissioned pastor was still "in the early stages of processing" both at the time the petition was filed and when the director denied the petition.

Rev. Park continues:

However, as indicated in the [REDACTED] Church Order, Article 23, Supplement 23-a, [the beneficiary] fulfills the qualifications to serve as a Pastor. See attached sections relating to "Commissioned Pastors" on Pages 39 to 45 of the [REDACTED] Church Order.

A review of the "Qualifications for a Commissioned Pastor" (Supplement, Article 23-a) starting on Page 42 shows that [the beneficiary] meets all the qualifications to be a Pastor. . . .

The "Ministry Readiness Profile" check list discussed by the USCIS in the RFE on Page 9 from the [REDACTED] website is provided for those who are already ordained in another denomination who wish to be ordained in the [REDACTED]. As an Associate Pastor, [the beneficiary] is not required to be ordained in the [REDACTED] denomination. No such requirement exists in the [REDACTED] Church Order for this position. Therefore, this check list is not applicable to [the beneficiary].

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<sup>2</sup> See [REDACTED] accessed on September 23, 2013, and incorporated into the record of proceeding.

[The beneficiary] currently qualifies to work as an Associate Pastor at The [petitioning] Church in our denomination. Once [the beneficiary's] I-360 petition is approved, our denomination will begin the application process to approve his candidacy.

The petitioner's evidence does not support Rev. Park's assertion that the beneficiary is not required to be ordained. Although the *Church Order* distinguishes between "ministers of the Word" and "commissioned pastors," it refers to both of them as "ordained." This is consistent with the information on the [redacted] website, and the [redacted] Church Order, Article 23. For example, Article 23, Supplement 23-a, lists the "Standards to be Met by Those Seeking to be Ordained as a Commissioned Pastor," (p.42). Supplement 23-c explains that the "mandate, characteristics, and guiding principles that define chaplains ordained as ministers of the Word are applicable to chaplains ordained [as commissioned pastors] under Article 23."

Rev. Park asserts that the beneficiary "currently qualifies to work as an Associate Pastor" because he "meets all of the qualifications" relating to "Commissioned Pastors." Rev. [redacted] refers to "sections relating to 'Commissioned Pastors' on Pages 39 to 45 of the [redacted] Church Order," and reviews the "Qualifications for a Commissioned Pastor" at Article 23, Supplement 23-a. These qualifications relate to character, Biblical knowledge, theological knowledge, and skill in the practice of ministry. The list of qualifications refers only to standards listed at pages 42 through 45 of the *Church Order*. Rev. [redacted] does not assert that the beneficiary also satisfied the requirements at pages 40 and 41.

Specifically, Article 23 of the *Church Order* deals with "commissioned pastors." Supplement 23-a (pp. 40-41) reads, in pertinent part:

*General Regulations*

The office of commissioned pastor is applicable to a variety of ministries, provided that these ministries fit the guidelines adopted by [redacted] and that the other Church Order and synodical regulations for the office of commissioned pastor are observed. These include ministries such as education, evangelism, pastoral care, music, and ministries to children, youth, adults, and others within or outside of the congregation. Before examining a person for the office of commissioned pastor or granting permission to install a previously ordained commissioned pastor in a new position, the classis, with the concurring advice of synodical deputies, will determine whether or not the position to which the person is being called fits the guidelines adopted by [redacted]. In addition, the candidates for the office of commissioned pastor must have proven ability to function in the ministry to which they are being called. The candidate shall also sustain a classical examination. The concurrence of synodical deputies is not required for the examination of a candidate for the office of commissioned pastor. The classical examination shall include the following elements:

- 1) Presentation of the following documents

- a) A council recommendation from the church in which the appointee holds membership
  - b) Evidence (diplomas, transcripts, etc.) of formal general education and of specialized training in the ministry area to which the candidate is being called
  - c) A copy of the letter of appointment from the church that is requesting ordination of the candidate as commissioned pastor
  - d) A copy of the candidate's letter of acceptance
- 2) Where applicable, presentation of a sermon
- a) In an official worship service, preferably on the Sunday preceding the meeting of classis and in the church to which the candidate for ordination has been called, the commissioned pastor shall preach a sermon on a text assigned by classis. Two members of classis shall be present to serve as sermon critics.
  - b) A copy of the sermon shall be provided to the classical delegates. In the presence of the commissioned pastor, the sermon critics shall evaluate the sermon and the commissioned pastor's manner of conducting the entire worship service.
- 3) Examination in the following areas
- a) Knowledge of Scripture
  - b) Knowledge of Reformed doctrine
  - c) Knowledge of the standards of the church and the Church Order
  - d) Practical matters regarding Christian testimony, walk of life, relationships with others, love for the church, approach to ministry, and promotion of Christ's kingdom

Article 23, Supplement 23-a, of the *Church Order* (p. 42), includes the following section:

*Standards to be Met by Those Seeking to be Ordained as a Commissioned Pastor*

An examination for the office of commissioned pastor will require that all commissioned pastors meet the church's standards for character and knowledge, whereas the standards for skill competence will relate specifically to the particular commissioned pastor's area of calling and expertise.

The petitioner failed to submit evidence confirming the beneficiary's local ordination as a commissioned pastor in the [REDACTED]. The record does not include evidence that prior to the petition's filing date, the beneficiary completed all of the above steps, including the completion of the "classical examination," a prerequisite for being ordained as a commissioned pastor. According to Article 23, Supplement 23-a, if the beneficiary had completed the process to be ordained as a commissioned pastor, documents such as the council recommendation from the church in which the beneficiary holds membership, a copy of the letter of appointment from the church that is requesting ordination of the beneficiary as commissioned pastor, and a copy of the candidate's letter of acceptance would be evidence of the petitioner's acceptance of the beneficiary as a minister.

The petitioner must establish that the beneficiary was qualified, fully authorized, and fully trained as a minister according to the petitioning denomination's standards at the time the petition was filed on August 27, 2009. 8 C.F.R. §§ 204.5(m)(5), (9). Although the petitioner has provided evidence that the beneficiary met the [REDACTED]'s internal list of qualifications, the evidence does not establish the beneficiary's actual completion of the other requirements for local ordination as a commissioned pastor. Accordingly, the petitioner has not satisfied the evidentiary requirements at 8 C.F.R. §§ 204.5(m)(5) and (9). Without evidence of the beneficiary's local ordination as a commissioned pastor, the petitioner has failed to establish by a preponderance of the evidence that, at the time of filing, the beneficiary was qualified, fully authorized, and fully trained as a minister according to the denomination's standards. On this basis alone, the petition may not be approved.

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 appeal is dismissed, and the petition remains denied.