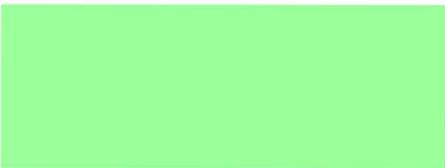
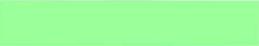




U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: AUG 04 2014 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)

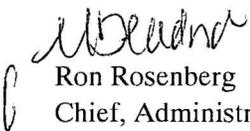
ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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.

Thank you,


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the employment-based immigrant visa petition. The matter is now before us at the Administrative Appeals Office on appeal. We will sustain the appeal and approve the petition.

The petitioner is a [REDACTED] temple. 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 nun. The director determined that the petitioner had not established that the beneficiary belonged to the petitioner's religious denomination throughout the two years immediately preceding the filing date of the petition.

On appeal, the petitioner submits a statement, a copy of an essay entitled "[REDACTED]" a recent bank statement, and copies of previously submitted documents.

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).

Section 101(a)(27)(C)(i) of the Act and the U.S. Citizenship and Immigration Services (USCIS) regulation at regulation at 8 C.F.R. § 204.5(m)(1) require the petitioner to have belonged to a religious denomination having a bona fide nonprofit, religious organization in the United States for at least 2 years immediately preceding the filing of the petition.

The USCIS regulation at 8 C.F.R. § 204.5(m)(5) defines “denominational membership” as “membership during at least the two-year period immediately preceding the filing date of the petition, in the same type of religious denomination as the United States religious organization where the alien will work.” The same regulation defines a “religious denomination” as “a religious group or community of believers that is governed or administered under a common type of ecclesiastical government and includes one or more of the following”:

- (A) A recognized common creed or statement of faith shared among the denomination’s members;
- (B) A common form of worship;
- (C) A common formal code of doctrine and discipline;
- (D) Common religious services and ceremonies;
- (E) Common established places of religious worship or religious congregations; or
- (F) Comparable indicia of a bona fide religious denomination.

The petitioner filed the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, on December 21, 2012, five months after the beneficiary entered the United States on July 21, 2012 as an R-1 nonimmigrant religious worker. The beneficiary, therefore, spent most of the two-year qualifying period outside of the United States, and the petitioner must establish denominational affiliation between the various religious institutions in which the beneficiary has served.

On line 4 of the employer attestation that accompanied the petition, the petitioner stated:

[The beneficiary] is part of the [REDACTED] and follows the [REDACTED]. This is the most common form of Buddhism practiced by Vietnamese people both in and outside of Vietnam. The [REDACTED] is outlawed by Vietnam’s government, so nuns in Vietnam are ordained and belong to the [REDACTED]. This difference is not religious.

In a letter, [REDACTED] abbot of the petitioning temple, elaborated on the above claim:

[The petitioner] is affiliated with the [REDACTED] in the United States of America and follows the [REDACTED]. This is the most prevalent form of Buddhism practiced by the Vietnamese People both in Vietnam and around the world. . . .

Please note that while there is no political connection between the Buddhist churches in Vietnam and those in the United States, there is a strong religious connection based on Vietnamese culture, tradition and religious training. . . .

No organizational connection exists between Buddhist churches in Vietnam and those in the United States because the current Vietnamese government does not allow the Buddhist church in Vietnam, the [REDACTED] to be affiliated or connected with Vietnamese Buddhists outside of Vietnam. Consequently, the connections or religious ties involve the training and ordination of both monks and nuns. . . .

[The beneficiary's] ordination as a nun is valid for the [REDACTED] practice by Vietnamese Buddhist monks and nuns anywhere in the world.

The petitioner quoted the Department of State's *International Religious Freedom Report for 2011* and the *2012 Annual Report* of the U.S. Commission on International Religious Freedom (USCIRF) to substantiate claims about curbs on religious freedom in Vietnam.

The petitioner also submitted a certified translation of the beneficiary's [REDACTED]-issued ordination documents, showing that the beneficiary received her ordination at [REDACTED] in 2006.

The director issued a request for evidence on April 9, 2013. The director quoted the regulatory definition of a religious denomination, and instructed the petitioner to provide evidence of qualifying denominational affiliation between the petitioning temple and the [REDACTED]. In response, the petitioner quoted the 2011 State Department report as stating: "The [REDACTED] was always a loose affiliation."

The petitioner quoted a second source as stating: "It would be misleading, however to present the [REDACTED] as a tightly knit hierarchical organization."¹

The petitioner also submitted and quoted a printout from "Buddhism in Vietnam," an article on *Wikipedia*. There are no assurances about the reliability of the content from this open, user-edited internet site.² See *Lamilem Badasa v. Michael Mukasey*, 540 F.3d 909 (8th Cir. 2008).

¹ The quotation was attributed to the *Google Books* search engine. The source appears to be a similar, but not identical, passage on page 133 of [REDACTED] by [REDACTED] published as a chapter in [REDACTED]. See [REDACTED] printout added to record June 19, 2014).

² Online content from *Wikipedia* is subject to the following general disclaimer:

WIKIPEDIA MAKES NO GUARANTEE OF VALIDITY. *Wikipedia* is an online open-content collaborative encyclopedia; that is, a voluntary association of individuals and groups working to develop a common resource of human knowledge. The structure of the project allows anyone with an Internet connection to alter its content.

[REDACTED] abbot of [REDACTED] stated that the beneficiary “has been in residence at our temple since February 15, 2006 until coming to the United States on July 21, 2012 and has had a life-long commitment to our [REDACTED] tradition.”

The director denied the petition on September 3, 2013, stating:

Evidence of record indicates that the beneficiary started working for the petitioning organization on July 21, 2012. Prior to this employment, the beneficiary was working for [REDACTED] in Vietnam. However, the petitioner has not submitted any documentary evidence to show that the beneficiary has been a member of [the] [REDACTED] for the last two years. Nor did the petitioner establish what relationship exists between its organization and [REDACTED] in Vietnam. . . .

Mere similarities in religious practices do not serve to make unrelated religious organizations members of the same “religious denomination” as that term is defined in the regulations. The petitioner has not established that there is a common governing body between its organization and the [REDACTED] in Vietnam where the beneficiary was working prior to July 21, 2012.

On appeal, the petitioner submits copies of several previously submitted exhibits and a reproduction of the Form I-129, Petition for a Nonimmigrant Worker, previously filed on the beneficiary’s behalf. That petition included a letter from [REDACTED] dated April 1, 2012, that is nearly identical to the December 15, 2012 letter that later accompanied the Form I-360 immigrant petition. The Form I-129 and accompanying letter, although dated April 1, 2012, are newly executed, with original rather than photocopied signatures. We do not have the petitioner’s original Form I-129 record of proceeding before us, and therefore we cannot determine whether the reproductions match what the petitioner had filed originally.

The petitioner also submits a printout of [REDACTED] an excerpt from [REDACTED] published by the [REDACTED] Chaplains Division, in 1967. The essay states: “Vietnamese [REDACTED] . . . is the major group of Buddhists found in Vietnam.” Section B of the Essay, [REDACTED] begins with the following passage:

Please be advised that nothing found here has necessarily been reviewed by people with the expertise required to provide you with complete, accurate or reliable information. . . . *Wikipedia* cannot guarantee the validity of the information found here. The content of any given article may recently have been changed, vandalized or altered by someone whose opinion does not correspond with the state of knowledge in the relevant fields.

See http://en.wikipedia.org/wiki/Wikipedia:General_disclaimer (printout added to record June 19, 2014).

Buddhism, as founded by Buddha and practiced by Buddhists today, is not monolithic. Established about 500 B.C. as a revolt against conditions in India out of which Hinduism also arose. Buddhist philosophy is divided into such major schools of thought as [REDACTED] and [REDACTED]. These schools are subdivided into approximately a thousand sects.

In Vietnam some sixteen of the Buddhist sects, including both [REDACTED] and [REDACTED] have joined together in the [REDACTED].

The submitted evidence demonstrates that the [REDACTED] is not a religious denomination as the statute and regulations contemplate that term, nor is it a "type of ecclesiastical government." It is, rather, an umbrella organization comprising different and divergent denominations of Buddhism, which apparently exists to advance the shared interests of all Buddhists in Vietnam and to resist government intrusions into those interests. As such, the record suggests that the [REDACTED] is primarily a political rather than a religious entity. The government reports reproduced in the record underscore the distinction between the [REDACTED] schools. Beyond the report quoted above, the USCIRF report states: "the [REDACTED] branch . . . has religious and ethnic traditions distinct from the dominant [REDACTED] tradition practiced in most of Vietnam." The Department of State report states: "More than half of the population is at least nominally Buddhist, with 10 percent of the population actively practicing [REDACTED] . . . and 1.2 percent of the population practicing [REDACTED]."

The petitioner's reference to the [REDACTED] as its "denomination" resulted in some confusion, but the petitioner's evidence demonstrates that the [REDACTED] is not a religious denomination. The preponderance of the submitted evidence resolves any ambiguity in the petitioner's favor, indicating that the religious denomination of the petitioning temple, and of the beneficiary's former temple in Vietnam, [REDACTED]. That temple's leader, [REDACTED], affirmed the beneficiary's "life-long commitment to our [REDACTED] tradition," and [REDACTED] has indicated that both the petitioner and the beneficiary "follow[] the [REDACTED]. These assertions are consistent and credible. The record does not show that [REDACTED] has any centralized authority that would be responsible for maintaining global records or verifying the beneficiary's membership in (or departure from) the denomination.

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 met that burden. Accordingly, we will withdraw the director's denial decision and approve the petition.

ORDER: The appeal is sustained and the petition is approved.