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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**

D13.

[Redacted]

FILE:

[Redacted]

Office:

[Redacted]

Date:

AUG 12 2010

IN RE:

Petitioner:

[Redacted]

Beneficiary:

PETITION: Nonimmigrant Petition for Religious Worker Pursuant to Section 101(a)(15)(R)(1) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(R)(1)

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 law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

[Redacted Signature]

Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the employment-based nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a church. It seeks to extend the beneficiary's status as a nonimmigrant religious worker pursuant to section 101(a)(15)(R)(1) of the Act, to perform services as a pastor. The director determined that the petitioner had not established the beneficiary is qualified for the proffered position.

On appeal, the petitioner states that the beneficiary has been an ordained pastor of its denomination since July 21, 1997 and is fully authorized to conduct all religious services within the petitioner's organization. The petitioner submits a letter in support of the appeal.

Section 101(a)(15)(R) of the Act pertains to an alien who:

(i) for the 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; and

(ii) seeks to enter the United States for a period not to exceed 5 years to perform the work described in subclause (I), (II), or (III) of paragraph (27)(C)(ii).

Section 101(a)(27)(C)(ii) of the Act, 8 U.S.C. § 1101(a)(27)(C)(ii), pertains to a nonimmigrant who seeks to enter the United States:

(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

(II) . . . 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) . . . 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.

The issue presented is whether the petitioner has established that the beneficiary is qualified for the proffered position.

The regulation at 8 C.F.R. § 214.2(r)(3) defines 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." The regulation also defines minister as an individual who:

(A) Is fully authorized by a religious denomination, and fully trained according to the denomination's standards, to conduct 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.

Additionally, the regulation at 8 C.F.R. § 214.2(r)(10) provides:

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 education 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 stated in its January 16, 2008 letter submitted in support of the petition that it is an affiliate of the [REDACTED] Mission located in Taiwan and that the beneficiary had worked as a full-time pastor since July 1997.

With the petition, filed on February 13, 2008, the petitioner submitted a copy of the beneficiary's July 21, 1997 certificate of ordination from the Church in Shih Pai. The certificate does not identify a specific denomination for the [REDACTED]

In a request for evidence (RFE) dated September 11, 2008, the director instructed the petitioner to provide the following:

Beneficiary Qualifications: Submit evidence to show that the beneficiary has been ordained. If the petitioner's religion or organization does not have formal ordination procedures, provide other evidence that the beneficiary has been authorized to conduct religious worship and perform other services usually performed by members of the clergy such as marriages and funerals.

Requirements For Ordination: If the petitioner's religion or organization does have formal ordination procedures, provide a detailed description of the religious denomination's or organization's requirements for ordination. Submit a copy of the organization's constitution, [REDACTED] California Form 199 to demonstrate the petitioner's ordination requirements.

In response, the petitioner enumerated the requirements for ordination within its denomination; however, it provided no documentation to support its statement. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. [REDACTED] (m. 1998) (citing *Matter of Treasure Craft of C* [REDACTED]). At the director's request, the petitioner provided a copy of its bylaws and a copy of its IRS Form 1023; however, neither of these documents discusses ordination requirements for the petitioner's denomination.

The director denied the petition, finding that the petitioner had not provided specific information regarding any training necessary for the position and therefore it could not be concluded that the beneficiary was authorized to perform services of the clergy. On appeal, the petitioner asserts that the beneficiary's certificate of ordination "is the solid evidence to demonstrate that he met all the requirements for ordination as a pastor."

We must disagree. The ordination certificate, which proclaims that the beneficiary met all the requirements of ordination and was duly ordained, is not a self-proving document. It does not provide documentary proof of any prescribed training or that the beneficiary has completed that training. Further, the petitioner submitted no documentation to establish that an ordination certificate from the [REDACTED] is accepted as qualifications as a minister within the petitioner's denomination. The petitioner submitted none of the documentation required by the regulation at 8 C.F.R. § 214.2(r)(10)(ii). The petitioner also failed to submit this documentation in response to the director's RFE, and this alone precludes approval of the petition. 8 C.F.R. § 103.2(b)(14). The petitioner has therefore failed to establish that the beneficiary is qualified for the proffered position.

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.