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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**

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **DEC 15 2010**

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

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:

SELF-REPRESENTED

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 \$630. 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,

M. Deadrick
Perry Rhew
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 an association of churches. 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 minister. The director denied the petition based on the petitioner's failure to submit any of the required initial evidence and supporting documentation.

On appeal, the petitioner states that it "never received notification from USCIS requesting this evidence." The petitioner submits additional documentation 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 petitioner filed a Form I-129, Petition for a Nonimmigrant Worker, on May 24, 2010, seeking to continue the beneficiary's employment with the petitioning organization. The petitioner submitted no other documentation with the petition. On June 29, 2010, the director denied the petition based on the petitioner's failure to submit any of the initial evidence required by the regulation or any documentation in support of the petition.

On appeal, the petitioner states that it was not notified to submit the missing evidence and that, as the beneficiary is already the recipient of an R-1 visa, the evidence has previously been submitted to U.S. Citizenship and Immigration Services (USCIS), the evidence substantiated the

petitioner's claims and established the requirements of the regulations. The petitioner submits a copy of a March 20, 2009 Form I-797B, Notice of Action, approving the beneficiary for R-1 status from April 14, 2009 to October 13, 2011. The petitioner also submits additional documentation, including a copy of a Department of State form DS-156, Nonimmigrant Visa Application, an outline of the duties of the proffered position, the beneficiary's qualifications for the proffered position, and documentation of how it intends to compensate the beneficiary.

The regulation at 8 C.F.R. § 103.2(b) provides, in pertinent part:

Evidence and processing—

(1) *Demonstrating eligibility at time of filing.* An applicant or petitioner must establish that he or she is eligible for the requested benefit at the time of filing the application or petition. All required application or petition forms must be properly completed and filed with any initial evidence required by applicable regulations and/or the form's instructions. Any evidence submitted in connection with the application or petition is incorporated into and considered part of the relating application or petition.

. . .

(8) *Request for Evidence; Notice of Intent to Deny—*

. . .

(ii) *Initial evidence.* If all required initial evidence is not submitted with the application or petition or does not demonstrate eligibility, USCIS in its discretion may deny the application or petition for lack of initial evidence or for ineligibility or request that the missing initial evidence be submitted within a specified period of time as determined by USCIS.

The regulation at 8 C.F.R. § 214(r)(5) provides:

Extension of stay or readmission. An R-1 alien who is maintaining status or is seeking readmission and who satisfies the eligibility requirements of this section may be granted an extension of R-1 stay or readmission in R-1 status for the validity period of the petition, up to 30 months, provided the total period of time spent in R-1 status does not exceed a maximum of five years. A Petition for a Nonimmigrant Worker to request an extension of R-1 status must be filed by the employer with a supplement prescribed by USCIS containing attestations required by this section, the fee specified in 8 C.F.R. § 103.7(b)(1), and the supporting evidence, in accordance with the applicable form instructions.

The instructions for Form I-129 and the regulations at 8 C.F.R. §§ 214.2(r)(7)-(12) outline all of the required evidence that must be initially submitted with the petition. The petitioner submitted none of the initial documentation with its petition. Although the petitioner states on appeal that it previously submitted the documentation in conjunction with its initial petition, the regulation clearly states that the petition for an extension of stay is a separate petition and must be accompanied by supporting evidence.

As the petitioner failed to submit any of the initial evidence or supporting documentation, the director did not abuse her discretion in denying the petition.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.