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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  
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D13

FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **NOV 22 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. The fee for a Form I-290B is currently \$585, but will increase to \$630 on November 23, 2010. Any appeal or motion filed on or after November 23, 2010 must be filed with the \$630 fee. 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,

*Perry Rhew*  
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 a church. It seeks to classify the beneficiary as a nonimmigrant religious worker under section 101(a)(15)(R)(1) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(R)(1), to perform services as an officiating priestess. The director determined that the petitioner had not established that the beneficiary is qualified for the proffered position and how it intends to compensate the beneficiary.

The petitioner asserts on appeal that the beneficiary “has been sufficiently trained and is a qualified Officiating Priestess in Nigeria and, therefore, qualifies to serve” with the petitioning organization. The petitioner further states that the proffered position is non-salaried but that the petitioner would provide the beneficiary with her housing, medical, food and transportation needs.

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 first 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)(1) 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.”

On the Form I-129 Supplement, the petitioner stated:

As an Officiating Priestess the beneficiary's duties include, but are not limited to assisting the Chief Priest with prayers and the promotion of spirituality. The alien will prepare sanctuary for service, recite sacred texts during worship, and share information of a religious nature with all who seek spiritual counsel. In addition, the beneficiary will assist the Chief Priest in the administration of religious rites or ordinances. The beneficiary's musical experiences at the Nigerian branch will also be capitalized upon to build the temple's music ministry.

The petitioner further stated:

An African Priestess who practices the Ifa faith has made a formal lifetime commitment to this religious system through vows, investitures, and ceremonies in ways similar to the Catholic nuns, monks, brothers or sisters. The beneficiary has been a fully initiated Priestess for many years and she has an in depth knowledge about the language, philosophy, customs, and practices of the Ifa religious system necessary to carry out her duties.

In a December 5, 2009 letter,

stated that the beneficiary had successfully passed her initiation ceremonies and traditional course and received the title of priestess. He further stated that “African traditional religion involves both oral and practical knowledge.” The petitioner submitted no other documentation to establish the beneficiary's qualifications.

In a request for evidence (RFE) dated March 11, 2010, the director instructed the petitioner to:

Provide a detailed explanation as to the requirements for the position offered, and how the beneficiary meets those requirements . . . Provide detailed evidence that the beneficiary meets the denomination[’s or] organization’s requirements including the beneficiary’s academic degree, transcripts, certificates, etc.

In response, the petitioner reiterated that the position requires, among other things, “full initiation” as a priestess in the Yoruba Ifa Orisa tradition and the individual “must have a formal lifetime commitment to this religious system through vows, investitures, and ceremonies.” Although the petitioner stated that the beneficiary had been initiated “many years ago at the Nigerian temple,” it submitted no documentation of the initiation ceremonies or any evidence that the beneficiary had made a formal lifetime commitment to her religion. 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. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

On appeal, the petitioner submits a May 15, 2010 letter from [REDACTED] who stated that the beneficiary "received and completed her spiritual training under [REDACTED] in August 2007 and that she was then "placed under the spiritual guidance of the temple's 'Ojugbona,' [REDACTED] as is done with every initiate of the temple." The petitioner submits a copy of an August 5, 2007 "Certificate of Completion" of officiating priestess training in IFA. However, the document does not indicate that it was issued to the beneficiary but to another individual.<sup>1</sup>

The petitioner has not submitted documentation of the initiation ceremonies that would mark the beneficiary's acceptance of her lifelong commitment to the petitioner's religion and has not submitted documentation that she has completed the required training. Accordingly, it has failed to establish that the beneficiary is qualified for the proffered position.

The second issue is whether the petitioner has established how it intends to compensate the beneficiary.

The regulation at 8 C.F.R. § 214.2(r)(11) provides:

*Evidence relating to compensation.* Initial evidence must state how the petitioner intends to compensate the alien, including specific monetary or in-kind compensation, or whether the alien intends to be self-supporting. In either case, the petitioner must submit verifiable evidence explaining how the petitioner will compensate the alien or how the alien will be self-supporting. Compensation may include:

(i) *Salaried or non-salaried compensation.* Evidence of compensation 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. IRS documentation, such as IRS Form W-2 or certified tax returns, must be submitted, if available. If IRS documentation is unavailable, the petitioner must submit an explanation for the absence of IRS documentation, along with comparable, verifiable documentation.

(ii) *Self support.*

(A) If the alien will be self-supporting, the petitioner must submit documentation establishing that the position the alien will hold is part

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<sup>1</sup> The record reflects that the petitioner has also submitted a Form I-129 petition on behalf of this other beneficiary, seeking to classify him as an officiating priest.

of an established program for temporary, uncompensated missionary work, which is part of a broader international program of missionary work sponsored by the denomination.

(B) An established program for temporary, uncompensated work is defined to be a missionary program in which:

- (1) Foreign workers, whether compensated or uncompensated, have previously participated in R-1 status;
- (2) Missionary workers are traditionally uncompensated;
- (3) The organization provides formal training for missionaries; and
- (4) Participation in such missionary work is an established element of religious development in that denomination.

(C) The petitioner must submit evidence demonstrating:

- (1) That the organization has an established program for temporary, uncompensated missionary work;
- (2) That the denomination maintains missionary programs both in the United States and abroad;
- (3) The religious worker's acceptance into the missionary program;
- (4) The religious duties and responsibilities associated with the traditionally uncompensated missionary work; and
- (5) Copies of the alien's bank records, budgets documenting the sources of self-support (including personal or family savings, room and board with host families in the United States, donations from the denomination's churches), or other verifiable evidence acceptable to USCIS.

In its December 1, 2009 letter submitted in support of the petition, the petitioner stated that the beneficiary would not receive a salary but would receive "housing, food, medical, and transportation instead of a paycheck or use of personal savings." The petitioner also stated temple members could volunteer to send donations towards the beneficiary's living expenses.

With the petition, the petitioner submitted letters from two individuals who promised to donate \$100 to the support of the beneficiary and [REDACTED]. However, the petitioner submitted no documentation of the housing or its ability to provide for the other nonsalaried compensation that it would pay to the beneficiary.

In her RFE, the director instructed the petitioner to provide evidence of compensation in accordance with the regulation. In response, the petitioner stated that the beneficiary would share a house with the chief priest and the other assistants. The petitioner submitted a photograph that it states is of the three-bedroom house and stated that the living arrangements could be verified during the onsite

visit. The petitioner provided no documentation to establish its ability to provide other nonsalaried compensation, such as food and transportation.

On appeal, the petitioner submits a May 16, 2010 letter from the chief priest [REDACTED] who states that the beneficiary would share his house and that the temple had allocated \$5,000 for food for the beneficiary and [REDACTED] and \$5,000 for their 2010 medical expenses. The petitioner also submits documentation of the insurance on [REDACTED] home, which shows that it is titled in his name, and resubmits the letters of promised support from two of its congregants.

The petitioner submits a copy of its 2010 budget in which it allocates \$5,000 for groceries and \$5,000 for medical expenses for the officiating priest and priestess. However, there is nothing in the record to suggest that the budgeted income is based on realistic expectations. The budget indicates that \$35,000 will be generated from membership dues. In its April 10, 2010 response to the RFE, the petitioner stated that it had 500 members. However, the record does not reflect how many of these are dues paying members or the amount of dues expected to be and are actually collected. On the Form I-129, the petitioner stated that it had a gross annual income of \$48,100. A copy of its treasurer's report for November 2005 through February 2006 reflects income for the four-month period of \$8,127.76 or an average of \$2,031.94 per month or \$24,383.28 for the year. The record does not provide sufficient documentation that the petitioner can expect an annual income from dues of \$35,000. Without supporting documentary evidence, the petitioner cannot meet its burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165.

The petitioner submits documentation reflecting that the beneficiary would reside in the home of the chief priest and would receive monetary support from other individuals. However, support received from others is not part of the compensation provided by the employing organization. 8 C.F.R. § 214.2(r)(11). The regulation at 8 C.F.R. § 214.2(r)(11)(ii) permits uncompensated religious work only as part of an established program for temporary, uncompensated missionary work, which is part of a broader international program of missionary work sponsored by the petitioner's denomination. The petitioner does not claim, and submits no documentation, to establish that the proffered position is that of an established program for temporary, uncompensated missionary work.

The petitioner has therefore failed to submit competent and verifiable documentation of how it intends to compensate the beneficiary.

The petition will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. 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.