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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: CALIFORNIA SERVICE CENTER Date: **OCT 14 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)

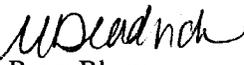
ON BEHALF OF PETITIONER:

[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.

Thank you,


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 sustained.

The petitioner 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 a campus missionary. The director determined that the petitioner had not established that the position qualifies as that of a religious occupation.

On appeal, the petitioner states that the duties of the proffered position relate to the religious purpose of the organization. The petitioner submits a statement and 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 issue presented is whether the petitioner has established that the proffered position qualifies as that of a religious occupation or vocation.

The regulation at 8 C.F.R. § 214.2(r)(3) provides:

Religious occupation means an occupation that meets all of the following requirements:

(A) The duties must primarily relate to a traditional religious function and be recognized as a religious occupation within the denomination;

(B) The duties must be primarily related to, and must clearly involve, inculcating or carrying out the religious creed and beliefs of the denomination;

(C) The duties do not include positions which are primarily administrative or support such as janitors, maintenance workers, clerical employees, fund raisers, persons solely involved in the solicitation of donations, or similar positions, although limited administrative duties that are only incidental to religious functions are permissible; and

(D) Religious study or training for religious work does not constitute a religious occupation, but a religious worker may pursue study or training incident to status.

The petitioner stated on the Form I-129 Supplement that the proffered position was that of "campus missionary/team leader" and described the duties of the position as follows:

As well as participating in the work [the petitioner] already does, [the beneficiary] will attend campus staff meeting[s] both Monday and Friday morning. From 11am to 6pm Monday to Thursday he will be teaching and evangelizing University students. Monday evenings he will lead bible studies for students. Thursday evening he will lead a worship concert. Friday will be for prayer and feedback, processing the week.

The petitioner also stated that the beneficiary would be compensated at the rate of \$24,000 per year.

On September 9, 2009, the director issued the petitioner a request for evidence (RFE) in which she sought, among other things, additional information about the "pastor position" and the "professional position," neither of which was the basis of the petition. In response, the petitioner advised that the beneficiary would be occupying neither a pastor nor a professional position. The petitioner again outlined the duties of the proffered position and stated that the beneficiary would work an average of 40 hours per week.

The director determined that the petitioner had failed to provide information regarding the minimum requirements for the proffered position and that the duties do not relate to a traditional religious function.

On appeal, the petitioner states that the duties of the position "reflect the goals of Christian evangelism, religious teaching, and religious training that are the core religious principals [sic] of the organization." The petitioner further stated that rather than serving in a "supporting role" as

stated by the director, the beneficiary would be “directly involved in religious activity. His duties include evangelism and bible teaching, prayer, leading worship, and participation in the religious work” of the petitioner. The petitioner offers additional details regarding the beneficiary’s work in the proffered position, including responsibility for the development and implementation of the campus ministry. The petitioner also stated that all staff workers (as opposed to volunteer participants), must complete a Discipleship Training School (DTS) or Crossroads Discipleship Training (CDTS) program. The petitioner submitted a “certificate of completion” reflecting that the beneficiary completed “Leadership Training School” in 2002 with the University of the Nations in Korea, “a part of Youth With A Mission.”

We find that the petitioner has submitted sufficient documentation to establish that the proffered position is a religious occupation within the meaning of the statute and regulation and we withdraw the director’s decision.

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 met that burden.

ORDER: The appeal is sustained.