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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

D13

DATE: NOV 04 2011 OFFICE: CALIFORNIA SERVICE CENTER FILE: [REDACTED]

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

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

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,

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 AAO will dismiss the appeal.

The petitioner is a Christian missionary organization. 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 Omaha base missionary. The director determined that the petitioner had failed to submit sufficient evidence of the beneficiary's means of self-support.

On appeal, the petitioner submits letters and new financial documents.

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 U.S. Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 214.2(r)(1) states that, to be approved for temporary admission to the United States, or extension and maintenance of status, for the purpose of conducting the activities of a religious worker for a period not to exceed five years, an alien must:

(i) Be a member of a religious denomination having a bona fide non-profit religious organization in the United States for at least two years immediately preceding the time of application for admission;

- (ii) Be coming to the United States to work at least in a part time position (average of at least 20 hours per week);
- (iii) Be coming solely as a minister or to perform a religious vocation or occupation as defined in paragraph (r)(3) of this section (in either a professional or nonprofessional capacity);
- (iv) Be coming to or remaining in the United States at the request of the petitioner to work for the petitioner; and
- (v) Not work in the United States in any other capacity, except as provided in paragraph (r)(2) of this section.

The USCIS regulation at 8 C.F.R. § 214.2(r)(11)(ii) states:

*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 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.

The petitioner filed the Form I-129 petition on August 17, 2009. In an accompanying employer attestation, the petitioner stated that the beneficiary would perform "temporary, uncompensated missionary work." The initial submission included little information about the beneficiary's compensation. A "Memorandum of Understanding / Work Agreement" between the petitioner and the beneficiary, effective May 1, 2009, indicated that the beneficiary "is a non-compensated employee of [the petitioner] by definition. Any donations or honorariums given him in religious service must be handled in accordance with existing IRS regulations."

On September 28, 2009, the director issued a request for evidence (RFE). The director instructed the petitioner to submit various types of evidence, including:

evidence to establish how the beneficiary intends to pay expenses while in the United States including bank statements for the last three months, personal income tax return for the most recent fiscal year, wire transfers, copies of traveler's checks, investment records, or other comparable evidence establishing the beneficiary's financial independence.

In response, the petitioner submitted copies of an Employment Authorization Card issued to the beneficiary's spouse, valid from October 20, 2008 to October 19, 2009. The card identified the beneficiary's spouse as a student. The petitioner also submitted copies of bank statements from the beneficiary's spouse's student checking account, showing the following balances for the end of each statement cycle:

July 9, 2009	\$122.19
August 10, 2009	779.05
September 9, 2009	111.47
October 8, 2009	871.77

The petitioner did not submit the other financial documentation that the director had requested.

On February 2, 2010, the director issued another RFE, instructing the petitioner to

submit copies of the alien's bank records and statements for October 2009, November 2009 and December 2009. Submit 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 response, the beneficiary stated: "I am a dependent of my wife . . . , who is a student at Grace University/Clarkson College and that we live in a married apartment offered by the University."

The petitioner did not document that the beneficiary would remain a student, eligible for student housing, throughout the entire term of the beneficiary's temporary stay as an R-1 nonimmigrant. University documentation indicates that one "MUST be a student to continue living in on-campus housing" (emphasis in original).

Copies of "[REDACTED]" contained the following information, starting zero in July 2009:

Month	Income	10% Admin.	Expenses	Ministry	End Balance
July 2009	\$1,000.00	\$100.00	\$625.42	--	\$274.58
August 2009	25.00	--	66.14	--	233.44
September 2009	1,025.00	102.50	793.13	\$750.06	360.31
October 2009	25.00	2.50	419.76	197.14	-36.95
November 2009	125.00	12.50	137.98	--	-62.43
December 2009	550.00	55.00	15.40	--	417.17
January 2010	300.00	30.00	444.67	394.67	242.50
February 2010	950.00	95.00	686.72	--	410.78

There are some small mathematical errors on the documents, such as a \$3.00 discrepancy between the August 2009 end balance and the September 2009 beginning balance. With respect to the source of the reported income, the entire \$1,000 on the July 2009 report actually represents funds from the beneficiary and his spouse. The beneficiary's spouse contributed \$185.00 of the income reported on the February 2010 statement.

The income and expenses listed above all fall under "work funds," only a fraction of which appear to have gone toward the beneficiary's material support (in the form of reimbursements for "ministry expenses). The only expense that the beneficiary claimed in December 2009 was \$15.40 to cover the cost of "copies." The "[REDACTED]" therefore, provide only an incomplete look at the sources and amounts of the funds available for the beneficiary's personal necessities.

Newly submitted bank statements show the following end-of-cycle balances:

Account holder	Statement end date	Balance
The beneficiary	October 13, 2009	\$90.82
The beneficiary's spouse	November 9, 2009	445.35
The beneficiary's spouse	January 11, 2010	395.80
The beneficiary	January 13, 2010	-16.37

██████████, president of the petitioning organization, stated: “It is our intention to help [the beneficiary] to seek donors to supplement his self-supported status with the goal of raising approximately \$3,200 per month.” The record shows that, in past months, the petitioner usually took in less than \$500 per month. The stated expectation that the beneficiary hopes to collect much greater donations in the future is not documentation of the sources of self-support.

On December 13, 2010, the director denied the petition, citing information that the beneficiary’s “spouse has lost her financial sponsor from her home country and [Immigration and Customs Enforcement] is recommending employment for her due to economic hardship. Therefore, the beneficiary’s spouse cannot support the beneficiary.” The director also noted that the beneficiary’s spouse’s bank statements show “an average balance of \$300.00 a month. . . . Therefore, the beneficiary will not be able to support himself and his spouse.”

On appeal, ██████████ states that the beneficiary’s spouse “has successfully covered all their expense[s] with an average monthly income of \$3,109.47 and a positive ending monthly balance in her bank account of \$475.64 a month.” ██████████ further asserts that the beneficiary “raised a total of \$10,721.00” in 2010, “which is an average of \$893.42” per month.

The petitioner derived the figures regarding the beneficiary’s spouse’s income from bank statements dated October through December 2010. The USCIS regulation at 8 C.F.R. § 103.2(b)(1) requires a petitioner to establish eligibility for the requested benefit at the time of filing the petition. Bank documents from late 2010 cannot retroactively show that the beneficiary had sufficient funds available as of the August 2009 filing date. In a similar vein, the new documents cannot show that the director made the wrong decision based on the information and evidence available to the director at the time of the decision.

For similar reasons, the beneficiary’s total fundraising for 2010 cannot establish eligibility as of August 2009. Also, the 2010 figure of \$10,721 falls well short of the stated goal of \$3,200 per month (or \$38,400 per year). The beneficiary’s spouse contributed \$1,685 of the \$10,721 total, mostly in monthly \$150 installments. The regulations call for evidence of financial support, rather than expressions of intent to solicit that support in the future.

The petitioner has provided minimal information about the beneficiary’s spouse’s employment or other source(s) of financial support. The “financial hardship” which the director mentioned – and which the petitioner did not dispute – does not inspire confidence in her ongoing ability to support the beneficiary and herself throughout the beneficiary’s intended stay as an R-1 nonimmigrant. Any employment authorization incident to her F-1 nonimmigrant status would not ensure further income after she completed her studies.

For the above reasons, the AAO will affirm the director’s finding that the petitioner did not submit sufficient verifiable evidence of the sources of the beneficiary’s self-support, as required by the USCIS regulation at 8 C.F.R. § 214.2(r)(11)(ii)(C)(5).

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 AAO will dismiss the appeal.

**ORDER:** The appeal is dismissed.