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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: APR 23 2012 Office: CALIFORNIA SERVICE CENTER FILE: V [Redacted]

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,

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 a youth missionary/youth leader. The director determined that the petitioner has not established that the beneficiary had been a member of its religious denomination for two full years immediately preceding the filing of the petition and how it intends to compensate the beneficiary.

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 first issue presented is whether the petitioner has established that the beneficiary has been a member of its religious denomination for two full years immediately preceding the filing of the visa petition.

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.

The petition was filed on January 13, 2011. Therefore, the petitioner must establish that the beneficiary was a member of its denomination for at least the two years immediately preceding that date.

The regulation at 8 C.F.R. § 214.2(r)(5) provides, in pertinent part:

Denominational membership means membership during at least the two-year period immediately preceding the filing date of the petition, in the same type of religious denomination as the United States religious organization where the alien will work.

Religious denomination means a religious group or community of believers that is governed or administered under a common type of ecclesiastical government and includes one or more of the following:

- (A) A recognized common creed or statement of faith shared among the denomination's members;
- (B) A common form of worship;
- (C) A common formal code of doctrine and discipline;
- (D) Common religious services and ceremonies;
- (E) Common established places of religious worship or religious congregations; or
- (F) Comparable indicia of a bona fide religious denomination.

In its January 3, 2011 letter submitted in support of the petition, the petitioner, through its pastor, Ron Sargent, stated that the petitioner “is an evangelical independent church” and “a member of Global Legacy which is a ministry of Bethel Church in Redding, California. Global Legacy is a network of international relational churches.” The petitioner also stated that it has “known [the beneficiary] for several years because of our relationship with Bethel Church.”

The petitioner submitted a brochure from Global Legacy which describes the organization as “an apostolic relational network of revival leaders whose purpose is to bring Heaven to earth”

The document also states that Global Legacy “helps build relationships between revival leaders by developing and sharing resources, through relational gatherings at conferences, ministry events and mission trips, as well as through the internet.” The brochure indicates that “Global Legacy is the administrative arm that facilitates relationships between graduates at the Bethel School of Supernatural Ministry (BSSM) and revival leaders around the world.”

In response to the director’s April 5, 2011 request for evidence (RFE), the petitioner stated that it is a nondenominational church that is in a “spiritual relationship with Bethel Church, Redding CA.” The petitioner further stated that the beneficiary has been a member of Global Legacy since 2007, and stated that he had attended the Bethel Church School of Ministry from September 2007 to May 2010. The petitioner submitted a May 4, 2010 “certificate for license” issued to the beneficiary by The River, an “international revival network,” ordaining the beneficiary as a minister. The record does not establish a relationship between the petitioner, Global Legacy and/or The River. The petitioner also submitted a copy of a May 14, 2010 letter from Global Legacy Deployment certifying that the beneficiary had “completed all requirements of The Deployment Training Program, a nine month internship offered by The Global Legacy Deployment Program which is a part of The Bethel School of Supernatural Ministry.”

The director found that the petitioner had not established that the beneficiary had been a member of its religious denomination for two full years immediately preceding the filing of the petition. The director’s decision appears to be based on the fact that the letter from the Global Legacy Deployment program did not specify the beneficiary’s dates of attendance. On appeal, the petitioner again outlined the dates of the beneficiary’s attendance at the Bethel School of Supernatural Ministry.

While the record sufficiently establishes the beneficiary’s relationship and membership with the Bethel Church, the petitioner has not established that the beneficiary has been a member of its religious denomination for the two years immediately preceding the filing of the petition. The petitioner stated that it is a nondenominational church that shares a “spiritual relationship with Bethel Church.” The petitioner submitted no documentation as required by the regulation at 8 C.F.R. § 214.2(r)(5) to establish that it is governed or administered under the same type of ecclesiastical government as the Bethel Church. Therefore it has failed to establish that it belongs to the same denomination as the Bethel Church.

Accordingly, the petitioner has failed to establish that the beneficiary has been a member of its denomination for two full years immediately preceding the filing of the petition.

The second issue presented on appeal 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 [Internal Revenue Service] documentation, such as IRS Form W-2 [Wage and Tax Statement] 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 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.

On the Form I-129, Petition for a Nonimmigrant Worker, the petitioner did not indicate any specific compensation that the beneficiary would receive but stated his compensation would consist of offerings and honorariums. The petitioner indicated that it had an annual gross income of \$150,000 but did provide its net income. In section 1, question 5d of the Form I-129 Supplement R, the petitioner stated that the beneficiary would receive monthly offerings, honorariums, and compensated speaking engagements, and that room and board would be provided by the church.

The petitioner submitted no other documentation with the petition to establish how it intends to compensate the beneficiary. In her RFE, the director instructed the petitioner to provide evidence of compensation in accordance with the above-cited regulation. In response, the petitioner stated that the proffered position is a new one and that compensation "will be provided in the form of monthly love offerings, honorariums for speaking engagements, and room and board provided. Offering is estimated to be \$500.00 per month." The petitioner also stated that room and board for the beneficiary would be provided by [REDACTED]

In denying the petition, the director determined that the petitioner had not provided "substantial evidence" of how it intends to compensate the beneficiary. On appeal, the petitioner states:

[W]e documented that the church's annual income is \$150,000. The petitioner is committed to a monthly compensation not to be less than \$500.00 per month, for an annual total of \$6,000.00 for the next five years. [REDACTED] have made a commitment to sponsor [the beneficiary's] room and board, as well, for the next five years as an in kind donation. The estimated value of the room and board is \$1,050.00 per month for an annual value of \$12,600 per year.

The petitioner submits a July 14, 2011 letter from [REDACTED] who states that he has known the beneficiary for four years, and that the beneficiary lived with him for the school year of September 2008 to May 2009, during which he provided the beneficiary with room and board. [REDACTED] states that he and his wife will be sponsoring the beneficiary during his tenure as youth pastor with the petitioning organization.

Despite the petitioner's assertions to the contrary, it has made no firm commitment of compensation to the beneficiary nor has it documented any income received by the church. Going on record by merely alleging the annual income without providing 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)). The petitioner states that the beneficiary's compensation will consist of love offerings and honorariums for speaking engagements. The petitioner estimates the love offerings will be about \$500 per month but it does not indicate the basis for this estimate. Furthermore, as this is a new position, the petitioner has no historical data on which to base either the amount of honorariums the beneficiary would receive or the number of speaking engagements that he can reasonably expect to receive.

The petitioner has therefore failed to provide 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.