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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: **JAN 09 2012**

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)(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*  
Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, denied the employment-based nonimmigrant visa petition and the petitioner subsequently appealed that decision. On October 7, 2010, the AAO remanded the matter for further action and consideration. The director again denied the petition. The matter is again before the AAO on appeal. The appeal will be dismissed.

The petitioner is a church. It seeks to classify the beneficiary as a nonimmigrant religious worker pursuant to section 101(a)(15)(R)(1) of the Act to perform services as its youth pastor. The director determined that the petitioner had not established how it intends to compensate the beneficiary.

The petitioner indicated on the Form I-290B, Notice of Appeal or Motion, filed on August 30, 2011, that it would submit a brief and/or additional evidence within 30 days. By letter dated September 27, 2011, the petitioner requested, and received, an extension of 90 days in which to find a new attorney and submit a brief and additional documentation. As of the date of this decision, however, no further documentation has been received by the AAO. Therefore, the record will be considered complete as presently constituted.

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 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 [Internal Revenue Service] 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.

The petitioner stated that the beneficiary would receive an annual remuneration of \$24,000, pastoral expenses, and miscellaneous allowances. With the petition, the petitioner submitted copies of its monthly bank statements for June 2007 through January 2008. The petitioner also submitted unaudited copies of its income and expenditure statements for the third and fourth quarters of 2006, and for the years 2007 and 2008. The statement for 2007 shows a net loss of \$191,123. The petitioner also submitted a copy of an income statement for January 2008, which shows a total income of \$53,756. However, the document reflects miscellaneous income of \$30,500, the source of which is unexplained in the record. The petitioner's 2008 income and expenditure budget does not show monies set aside for any particular expenditure and assumes an increase in income of 15% with no explanation as to the basis for the assumption.

In response to the director's request for evidence (RFE) dated March 25, 2008, the petitioner submitted an uncertified copy of IRS Form 990, Return of Organization Exempt from Income Tax for 2007, which reflects net assets of \$152,646, and an uncertified copy of its 2007 California State Form 199, California Exempt Organization Annual Information Return, which does not identify any expenses for the year. The petitioner also submitted copies of its monthly bank statements for March and April 2008.

In response to the director's March 28, 2011 RFE, the petitioner submitted a copy of the IRS transcript for its 2007 IRS Form 990, which does not show any income or expenses; copies of its monthly bank statements for August, September, and October of 2010; and an unaudited copy of its 2010 income and expense statement, which reflects a line item for salaries and allowances totaling \$88,100. The income and expense statement does not reflect a consistent budgeted amount for salaries and reflects only \$1,700 for December. Further, the document shows a projected loss of \$2,558.76 for the year. The petitioner also provided a copy of the IRS Form W-2 for its senior

pastor. However, as the petitioner does not allege that the beneficiary will assume the role of senior pastor, payment of that salary is not evidence of the petitioner's ability to pay the beneficiary as youth pastor.

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

The AAO will therefore affirm the director's 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. The petitioner has not sustained that burden.

**ORDER:** The appeal is dismissed.