

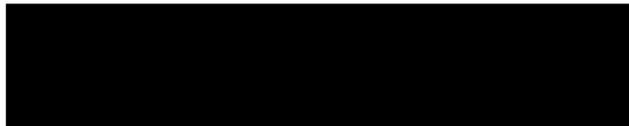
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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**



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Date: **JAN 23 2012**

Office: CALIFORNIA SERVICE CENTER

FILE: 

IN RE:

Petitioner:

Beneficiary:



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 Roman Catholic religious order. 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 "Roman Catholic Sister." The director determined that the petitioner had not established that the beneficiary is qualified to engage in religious work.

On appeal, the petitioner states that beneficiary was unable to obtain the necessary religious training in Viet Nam and the petitioner seeks to bring her to the United States to complete her religious training to become a missionary sister. The petitioner submits a letter of explanation 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 an alien 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 beneficiary is qualified for the proffered position.

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.

*Religious vocation* means a formal lifetime commitment, through vows, investitures, ceremonies, or similar indicia, to a religious way of life. The religious denomination must have a class of individuals whose lives are dedicated to religious practices and functions, as distinguished from the secular members of the religion. Examples of vocations include nuns, monks, and religious brothers and sisters.

*Religious worker* means 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, Petition for a Nonimmigrant Worker, the petitioner stated:

[The beneficiary] and the sisters included in this petition are members of the community of the Sisters of [REDACTED]. They are on the formation process, therefore they will focus on studying and acquiring adequate knowledge spiritually as well as intellectually in order to become missionary sisters. They do not hold any position or job status.

The petitioner submitted a copy of its formation program, which includes human formation, Christian formation, and formation as a sister of [REDACTED]. In response to the director's March 9, 2011 request for evidence, Sister [REDACTED] the district superior of the Sisters of [REDACTED] District in Viet Nam, stated that the

beneficiary is a “bona-fide member” of their congregation and “has been assigned for further advanced Religious Formation Program in the United States. . . .”

The director denied the petition, finding that the petitioner had not established that the beneficiary is engaged in a religious vocation or occupation and that the record does not establish that she has taken final vows to become a nun “or otherwise undertook any religious training or preparation in order to be recognized as a sister.”

On appeal, Sister [REDACTED], the petitioner’s local superior, states:

In Viet Nam, under the Communist regime, especially in the North of Viet Nam, to recruit young candidates into the religious life is prohibited. Therefore, under the title of “Boarding House for Girls”, we recruit those who have the desire to become members of our congregation. Since they stay with us, they still go to public school to get a diploma, in the same time they are helped to discern their vocation and to learn different skills in order to become an official member of the Congregation. Under the strict rule of the government, these candidates are not allowed to obtain official religious trainings but to the congregation of the Sisters of Saint Paul and to the Church, they are already their members.

On the other hand, as an international congregation, we equip our members with adequate knowledge so that wherever we are sent we can serve affectively [sic]. Our religious communities in Viet Nam, specifically in the North of Viet Nam, lack of [sic] good conditions for the training for young members, therefore we petition for them to come to the United States for the advance training in order to become missionary Sisters.

The petitioner makes clear in all of its correspondence that the beneficiary is in training to become a missionary sister. Pursuant to the regulation at 8 C.F.R. § 214.2(r)(3), religious study or training for religious work does not constitute a religious occupation. Additionally, the petitioner has submitted no documentation to establish that the beneficiary has made a formal lifetime commitment, through vows, investitures, ceremonies, or similar indicia, to a religious way of life. The fact that she is recognized as a member of the congregation does not establish that she has made the formal commitment to become a nun.

Accordingly, the petitioner has failed to establish that the beneficiary is qualified for the proffered position of Roman Catholic sister.

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.