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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

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Date: **MAR 01 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.

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 is a mosque. It seeks to extend the beneficiary's status 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 imam. The director determined that the petitioner had not established that the beneficiary is qualified for the proffered position.

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 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) defines religious worker as "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." The regulation also defines minister as an individual who:

- (A) Is fully authorized by a religious denomination, and fully trained according to the denomination's standards, to conduct religious worship and perform other

duties usually performed by authorized members of the clergy of that denomination;

- (B) Is not a lay preacher or a person not authorized to perform duties usually performed by clergy;
- (C) Performs activities with a rational relationship to the religious calling of the minister; and
- (D) Works solely as a minister in the United States which may include administrative duties incidental to the duties of a minister.

Finally, the regulation at 8 C.F.R. § 214.2(r)(10) requires that, if the alien is a minister, the petitioner must submit:

- (i) A copy of the alien's certificate of ordination or similar documents reflecting acceptance of the alien's qualifications as a minister in the religious denomination; and
- (ii) Documents reflecting acceptance of the alien's qualifications as a minister in the religious denomination, as well as evidence that the alien has completed any course of prescribed theological education at an accredited theological institution normally required or recognized by that religious denomination, including transcripts, curriculum, and documentation that establishes that the theological education is accredited by the denomination, or
- (iii) For denominations that do not require s prescribed theological education, evidence of
 - (A) The denomination's requirements for ordination to minister;
 - (B) The duties allowed to be performed by virtue of ordination;
 - (C) The denomination's levels of ordination, if any, and
 - (D) The alien's completion of the denomination's requirements for ordination.

In its July 1, 2010 letter submitted in support of the petition, the petitioner, through its president, [REDACTED] stated that it had employed the beneficiary as its full-time imam since November 6, 2008, and that the beneficiary "leads the five (5) daily prayers, leads all religious ceremonies, performs religious recitations, teaches reading writing and recitation of Holy Scriptures, teaches prayer and provides religious guidance to members of petitioner."

In a March 3, 2011 request for evidence (RFE), the petitioner instructed the petitioner to:

Provide a detailed explanation as to the requirements for the position offer, and how the beneficiary meets these requirements.

- Provide evidence that the beneficiary meets the denominations [sic] organization's requirements including the beneficiary's academic degree, transcripts, certificates, etc.

In response, the petitioner outlined the knowledge, skills, abilities, and work activities required for the position, stating that the beneficiary graduated from Al-Azhar University of Egypt and met these requirements. Regarding the required education and training, the petitioner stated that the position required "[k]nowledge of principles and methods for curriculum and training design, teaching and instruction for individuals and groups, and the measurement of training effects."

The director denied the petition, finding that the petitioner "did not submit the detailed explanation as to the requirements for the position offered, and how the beneficiary meets those requirements." On appeal, the petitioner submits its required qualifications for an imam, which include a degree from "a reputable Islamic University, graduate of Alazhar university is preferred [sic] and a recommendation from reputable scholars." The petitioner also submits a copy of the beneficiary's July 22, 2004 certificate of graduation from Al-Azhar University, accompanied by an English translation, reflecting that he received a "bachelor/master degree" in Islamic theology. The petitioner submits a copy of the beneficiary's résumé in which he outlines his work history since 2005. The petitioner also submits other documentation that is unaccompanied by English translations. Because the petitioner failed to submit certified translations of the documents, the AAO cannot determine whether the evidence supports the petitioner's claims. *See* 8 C.F.R. § 103.2(b)(3). Accordingly, the evidence is not probative and will not be accorded any weight in this proceeding.

Nonetheless, the petitioner has submitted sufficient documentation to establish that the beneficiary is qualified for the proffered position. The director's decision is therefore withdrawn.

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.