



U.S. Citizenship  
and Immigration  
Services

(b)(6)

[Redacted]

Date: **MAR 22 2013**

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, 8 U.S.C. § 1101(a)(15)(R)(1)

ON BEHALF OF PETITIONER:

[Redacted]

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

  
Ron Rosenberg  
Acting 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 Buddhist temple. 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 a minister. The director determined that the petitioner had not established how it intends to compensate the beneficiary.

On appeal, counsel asserts that the director's decision to deny the petition "is erroneous" in that the petitioner has provided documentation of bills paid on behalf of the beneficiary and that his meals must be provided by the congregation. 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 how it intends to compensate the beneficiary.

The U.S. Citizenship and Immigration Services (USCIS) 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.

The petitioner stated on the Form I-129, Petition for Nonimmigrant Worker, Supplement R, "It is well established that Buddhist Ministers are forbidden to accept monetary payment. The Temple and its members are responsible for providing for the Minister's [basic] needs, including, accommodation, food, utilities, clothing and transportation." The petitioner also stated that the beneficiary would "live and work at the Temple."

With the petition, filed on May 16, 2012, the petitioner submitted copies of its utility bills covering the period September 2011 to April 2012 and copies of unprocessed checks for the payment of those bills. The petitioner submitted no other documentation with the petition to establish how it intends to compensate the beneficiary. In a July 10, 2012 request for evidence (RFE), the director instructed the petitioner to submit verifiable documentation in accordance with the above-cited regulation to establish how it will compensate the beneficiary.

In response, counsel stated in an August 1, 2012 letter:

As previously stated, Buddhist Monks are not permitted to receive any form of payment. Instead, the congregation is required to meet all their daily needs. We submitted evidence in our initial request of payments made on the priest's behalf to cover the expenses incurred for utility bills. His food is provided by members of the community who take turns to make his meals. We enclose a letter from the Lord Buddhist Abbot confirming that the Monk's accommodation is within the Temple itself. Therefore, there is no lease agreement available to be submitted.

In a July 27, 2012 statement, the [redacted] Lord Buddhist Abbot, confirmed that the beneficiary "is currently residing at [the petitioning organization]." The petitioner submitted no other documentation in response to the RFE, such as evidence of the

beneficiary's living arrangements or the provision of meals by congregants, to establish how it would compensate the beneficiary. The director denied the petition, finding that the letter from the abbot did not constitute the "verifiable documentation" required by the regulation.

On appeal, counsel states:

Evidence was provided in the form of cancelled checks to demonstrate bills paid on behalf of the Monk by the Petitioner from the start of the Monk's appointment by the Temple. The Monk is required to live on the Temple premises and therefore does not have a separate address. As the Monk is required to be fed by the congregation, his food is in fact provided by various members of the Temple who rotate responsibility for providing for the Monk. This is a strict requirement under Buddhist teachings.

The petitioner submits an article, "The Buddhist Monk's Discipline," by Bhikkhu Khantipalo, that describes that Buddhist monk's reliance on laypersons for their food, an undated statement from [REDACTED] who also explained the arrangement for food for the beneficiary, and statements from various members of the petitioner's congregation who attest to providing food for the beneficiary during his stay with the petitioning organization.

While the petitioner has provided documentation regarding food for the beneficiary, it has provided no verifiable documentation of any "accommodation . . . clothing and transportation" that it stated it would provide. Although the petitioner submitted copies of utility bills, it provided no other documentary evidence, such as evidence of its ownership or lease of its building and of the living quarters provided to the beneficiary.

The petitioner has failed to provide verifiable documentary evidence in accordance with the regulation at 8 C.F.R. § 214.2(r)(11) to establish how it will 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.