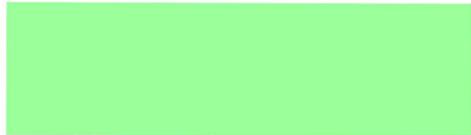


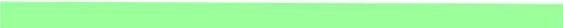


U.S. Citizenship  
and Immigration  
Services

(b)(6)

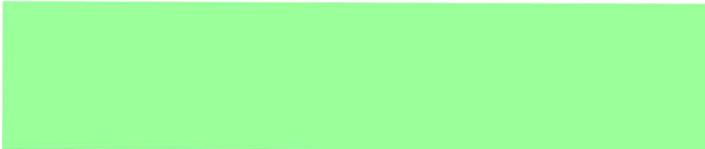


DATE: **APR 02 2014** OFFICE: CALIFORNIA SERVICE CENTER 

IN RE: Petitioner:   
Beneficiary: 

PETITION: Nonimmigrant Petition for Religious Worker Pursuant to Section 101(a)(15)(R) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(R)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

  
Ron Rosenberg  
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 AAO will withdraw the director's decision and remand the petition for further action and consideration.

The petitioner is a Baptist church. It seeks classification of the beneficiary as a nonimmigrant religious worker pursuant to section 101(a)(15)(R) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(R), to perform services as a deaconess. The director determined that the petitioner failed to successfully complete a compliance review site visit.

The United States Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 103.2(b)(16)(i) provides, in pertinent part:

If the decision will be adverse to the applicant or petitioner and is based on derogatory information considered by the Service and of which the applicant is unaware, he/she shall be advised of this fact and offered an opportunity to rebut the information and present information on his/her own behalf before the decision is rendered . . . .

In her September 12, 2013 decision, the director denied the Form I-129, Petition for a Nonimmigrant Worker, based on the negative findings of a pre-adjudicative site visit conducted at the petitioner's address of record on July 30, 2013. The petitioner was not advised of the findings of the site visit prior to the issuance of the decision. Accordingly, the petition is remanded for the director to provide the petitioner an opportunity to submit additional information, evidence or arguments in response to the findings in accordance with 8 C.F.R. § 103.2(b)(16)(i).

On remand, the director may request any additional evidence deemed warranted and should allow the petitioner to submit additional evidence in support of its position within a reasonable period of time. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

**ORDER:** The director's decision is withdrawn. The petition is remanded to the director for further action in accordance with the foregoing and entry of a new decision which, if adverse to the petitioner, is to be certified to the Administrative Appeals Office for review.