

(b)(6)



U.S. Citizenship  
and Immigration  
Services

DATE: NOV 28 2014

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) 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. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

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 appeal will be dismissed.

The Form I-129, Petition for a Nonimmigrant Worker, filed with the U.S. Citizenship and Immigration Services (USCIS), indicates that the [REDACTED] is the petitioner. The petition, however, is signed by the beneficiary, [REDACTED]. The director determined that [REDACTED] had filed the petition on his own behalf and that he would not be remaining in the United States at the request of, and to work for, a qualified petitioner. The appeal was accordingly dismissed.

The petitioner seeks a change of immigration status and to classify himself 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 pastor.

On appeal, the petitioner asserts that he signed the petition as an authorized representative of the [REDACTED], not as an individual employee seeking religious worker classification on his own behalf.

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 to be considered is whether the petitioner has established that he seeks to enter the United States at the request of a qualified petitioner to work for that petitioner.

The regulation at 8 C.F.R. § 214.2(r)(1) provides that:

To be approved for temporary admission to the United States, or extension and maintenance of status, for the purpose of conducting the activities of a religious worker for a period not to exceed five years, an alien must:

(iv) Be coming to or remaining in the United States at the request of the petitioner to work for the petitioner.

The petitioner submitted evidence that the [REDACTED] filed its articles of incorporation with the Florida Department of State on July 11, 2011. Mr. [REDACTED] is listed as the registered agent for the corporation, as well as an officer and director. The 2013 Florida Non Profit Corporation Annual Report was filed with the Florida Secretary of State on March 7, 2013 showing that Mr. [REDACTED] is still listed as the corporation's registered agent and an officer and director. The Form I-129 indicates that Mr. [REDACTED] is the only employee of the church. In an undated and unsigned letter outlining the history of the church, Mr. [REDACTED] is identified as the "President Pastor/Director of Spiritual Innovation." His wife is identified as the treasurer and his son as the secretary. They are also identified in the articles of incorporation as the initial board of directors. The checks for the bank show the names of the petitioner and his wife above that of the church's name, and the petitioner's wife signed his paychecks.

The record indicates that the church services of [REDACTED] are held at [REDACTED], Florida and the petitioner submitted a rental agreement for that location. The Form I-129, however, lists the petitioner's address in Part 1 of the petition as [REDACTED], Florida, the same address stated in Part 3 as Mr. [REDACTED] residence address. Mr. [REDACTED] signed the Form I-129 petition in Part 7 stating, under penalty of perjury, that the contents of the petition and any evidence submitted with it were true and correct. He also signed the Form I-129 Supplement R Employer Attestation. The record contains no documentation showing that the church authorized Mr. [REDACTED] to petition for himself on behalf of the church. The record indicates that Mr. [REDACTED] is the petitioner in this instance, not the [REDACTED].

On November 26, 2008, USCIS promulgated a rule setting forth new regulations for special immigrant religious worker petitions. 73 Fed. Reg. 72276 (Nov. 26, 2008). As it relates to self-petitioners, the supplemental information further provided:

The [notice of proposed rulemaking] proposed to require that all aliens seeking religious worker status—whether as special immigrants or nonimmigrants—must have a sponsoring employer or organization submit a petition on the aliens' behalf. This final

rule retains the petitioning requirement, but continues to allow an alien seeking special immigrant religious worker status to submit a petition (Form I-360) on his or her behalf . . . A nonimmigrant alien seeking R-1 status cannot self-petition, but must have an employer submit a petition (Form I-129) on his or her behalf . . . By implementing the petition requirement, USCIS seeks to preserve the integrity of the program at the outset by denying the petition for fraud or other ineligibility factors. It also allows both USCIS and the petitioning religious employer to respond to derogatory information revealed by on-site inspections before the petition is filed. 73 Fed. Reg. 72276, 72277 (Nov. 26, 2008).

An alien cannot circumvent this requirement by simply signing the petition on behalf of the organization.

The record establishes that the alien signed the petition. He is, therefore, considered to be a self-petitioner of the instant petition. As the regulations governing nonimmigrant religious worker petitions do not permit an alien to self-petition, the petitioner has failed to establish that he seeks to work in the United States on behalf of a qualified petitioner.

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 not sustained that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.