



U.S. Citizenship
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Services

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FILE: SRC 04 130 50332 Office: TEXAS SERVICE CENTER Date:

IN RE: Petitioner:
Beneficiary



JUL 14 2006

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

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

for Michael T. Kelly
Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The director of the service center denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition will be denied.

The petitioner is a church that seeks to employ the beneficiary as a director of religious activities and education. The petitioner, therefore, endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition on the ground that the proposed position is not a specialty occupation. The petitioner submitted a timely appeal and additional evidence.

Section 214(i)(1) of the Act, 8 U.S.C. § 1184(i)(1), defines the term "specialty occupation" as an occupation that requires:

- (A) theoretical and practical application of a body of highly specialized knowledge, and
- (B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

Pursuant to 8 C.F.R. § 214.2(h)(4)(iii)(A), to qualify as a specialty occupation, the position must meet one of the following criteria:

- (1) A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;
- (2) The degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, an employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree;
- (3) The employer normally requires a degree or its equivalent for the position; or
- (4) The nature of the specific duties is so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

In order to comply with section 214(i)(1) of the Act, quoted above, Citizenship and Immigration Services (CIS) interprets the term "degree" in the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A) to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proffered position.

The record of proceeding before the AAO contains: (1) the Form I-129 and supporting documentation; (2) the director's request for additional evidence; (3) the petitioner's response to the director's request; (4) the

director's denial letter; and (5) the Form I-290B and additional evidence. The AAO reviewed the record in its entirety before issuing its decision.

The petitioner is seeking the beneficiary's services as a director of religious activities and education. The undated letter that accompanied the Form I-129 petition stated that the offered position requires a bachelor's degree in the field of humanities, law, or social studies.

The director denied the petition, finding that the Department of Labor's (DOL) *Occupational Outlook Handbook* (the *Handbook*) reports that directors of religious activities and education do not require a specific area of study. The director further stated that the submitted employment vacancy announcements do not indicate that a bachelor's degree with a specific concentration of study is the minimum entry requirement for the offered position. The director cited *Matter of Michael Hertz Assocs.*, 19 I&N Dec. 558, 560 (Comm. 1988), and stated that the case indicates that a position must require a precise and specific course of study, which relates directly to the offered position. The director concluded that the petitioner satisfied none of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A).

On appeal, the petitioner states that the *Dictionary of Occupational Titles (DOT)*, the *Occupational Information Network (O*Net)*, the letter from the Mount Vernon Baptist Church, and the letter from the Atlanta Association of Southern Baptists demonstrate that the offered position qualifies as a specialty occupation. The petitioner asserts that the director did not properly consider the correlation between the beneficiary's education and the proposed position. The petitioner submits a newspaper article in order to show how it will use the services of a director of religious activities and education.

Upon review of the record, the petitioner has established none of the four criteria outlined in 8 C.F.R. § 214.2(h)(4)(iii)(A). Therefore, the proffered position is not a specialty occupation.

To qualify as a specialty occupation, the Act states that the offered position must require a baccalaureate or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation. Furthermore, the director was correct in citing *Matter of Michael Hertz Assocs.* as the decision, which has precedential weight in accordance with 8 C.F.R. § 103.3(c), indicates that the baccalaureate degree must relate "directly and closely to the position in question."

A petitioner must establish that the position realistically requires knowledge, both theoretical and applied, which is almost exclusively obtained through studies at an institution of higher learning. The depth of knowledge and length of studies required are best typified by a degree granted by such institution at the baccalaureate level. It must be demonstrated that the position requires a precise and specific course of study which relates directly and closely to the position in question. Since there must be a close corollary between the required specialized studies and the position, the requirement of a degree of generalized title, such as business administration or liberal arts, without further specification, does not establish eligibility.

With the position offered here, the petitioner requires a bachelor's degree in the field of humanities, law, or social studies. Those are diverse fields of study. The humanities alone, for example, include disciplines in language, literature, history, philosophy, history of art, and the history of music. Thus, the petitioner does not require for the offered position a baccalaureate degree in a specific discipline or narrow range of disciplines that are directly and closely related to the offered position. For this reason, the AAO finds that the petitioner establishes none of the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A): a baccalaureate or higher degree or its equivalent in a specific specialty is the normal minimum requirement for entry into the particular position; a specific degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, that the position is so complex or unique that it can be performed only by an individual with a degree in a specific specialty; the petitioner normally requires a degree or its equivalent in a specific specialty for the proffered position; or the nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree in a specific specialty.

The AAO notes that the letter from the Atlanta Association of Southern Baptists states that a baccalaureate degree in the area of education, social studies, law, or religion is appropriate for a director of religious activities and education. Based on the aforesaid discussion, this letter fails to show that the offered position qualifies as a specialty occupation because the position requires a bachelor's degree in a specific academic specialty. The letter from Mount Vernon Baptist Church states that a degree in law would be adequate for the offered position. However, the AAO finds that a law degree is not directly and closely related to the proposed duties, which involve counseling and religious instruction.

As related in the discussion above, the petitioner has failed to establish the proposed position as a specialty occupation. Accordingly, the AAO shall not disturb the director's denial of the petition.

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.

ORDER: The appeal is dismissed. The petition is denied.