



U.S. Department of Justice  
Immigration and Naturalization Service

CJ

OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536



File: LIN-99-090-50626 Office: Nebraska Service Center

Date:

AUG 9 2000

IN RE: Petitioner:  
Beneficiary:



Petition: Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(4)

IN BEHALF OF PETITIONER:



Public Copy

Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

INSTRUCTIONS:

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

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Terrance M. O'Reilly, Director  
Administrative Appeals Office

**DISCUSSION:** The immigrant visa petition was denied by the Director, Nebraska Service Center. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a church. It seeks classification of the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(4), to serve as a pastor. The director denied the petition determining that the petitioner had failed to establish the beneficiary's two-year membership in its denomination.

On appeal, counsel argues that the beneficiary is eligible for the benefit sought.

Section 203(b)(4) of the Act provides classification to qualified special immigrant religious workers as described in section 101(a)(27)(C) of the Act, 8 U.S.C. 1101(a)(27)(C), which pertains to an immigrant who:

(i) for at least 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;

(ii) seeks to enter the United States--

(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

(II) before October 1, 2000, 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) before October 1, 2000, 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 Code of 1986) at the request of the organization in a religious vocation or occupation; and

(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i).

At issue in the director's decision is whether the petitioner has established that the beneficiary has been a member of its denomination for the two-year period prior to filing.

8 C.F.R. 204.5(m) (1) states, in pertinent part:

An alien, or any person in behalf of the alien, may file an I-360 visa petition for classification under section 203(b)(4) of the Act as a section 101(a)(27)(C) special immigrant religious worker. Such a petition may be filed by or for an alien, who (either abroad or in the United States) for at least two years immediately preceding the filing of the petition has been a member of a religious denomination which has a bona fide nonprofit religious organization in the United States.

8 C.F.R. 204.5(m) (2) defines a religious denomination as:

a religious group or community of believers having some form of ecclesiastical government, a creed or statement of faith, some form of worship, a formal or informal code of doctrine and discipline, religious services and ceremonies, established places of religious worship, religious congregations, or comparable indicia of a bona fide religious denomination.

The petition was filed on February 4, 1999. The petitioner must therefore establish the beneficiary's membership in its denomination from at least February 4, 1997 to February 4, 1999.

In its letter dated December 8, 1998, the petitioner stated that it:

was formed on February 4, 1998 . . . [and] prescribes primarily to the beliefs of the Seventh Day Adventist Church ("SDA"), but is not officially associated with the SDA denomination . . . [The beneficiary] has been a member of the Adventist denomination and religious vocation for many years.

The petitioner submitted a Certificate of Ordination awarded to the beneficiary by the Korean Union Conference of Seventh-Day Adventists.

On May 27, 1999, the director requested that the petitioner submit evidence of the beneficiary's membership in its denomination during the two-year period prior to filing. In response, counsel stated that:

[The petitioner] is a former Seventh Day Adventist Church congregation. Separated from the Seventh Adventist Church for administrative reasons only, it maintains an identical set of beliefs and as such considers anyone who has been a member of the Seventh Day Adventist Church to

have consistently been a member of their independent congregation.

The petitioner stated that it:

is an independent church formed from a former Seventh Day Adventist congregation. The purpose for the separation of an individual congregation was to be able to focus on the needs of a predominantly Korean culture congregation . . . . Seeing that the needs and communication needs of the two congregations may not mix as well as could be, we decided to create our own entity, being spiritually the same as the Seventh Day Adventist Church, however being managing independently and focused on bringing the beliefs of the Seventh Day Adventist Church to our community.

On appeal, the petitioner submits a form letter from the pastor at [REDACTED] advertising a "Youth Rally" and billing statements from the [REDACTED] for purchases made by the petitioner. Counsel argues that these documents provide "ample evidence of the commonality of [the petitioner's] doctrine and practices to demonstrate continued and uninterrupted alignment with the Seventh Day Adventist Church." Counsel's argument is unpersuasive. The documents submitted on appeal do not demonstrate that the petitioner belongs, or did belong, to the Seventh-day Adventist denomination. There is no evidence that the [REDACTED] is a member of the Seventh-day Adventist Church, and, an invitation to participate in a youth rally sponsored by them is not evidence that the petitioner is a member of the Seventh-day Adventist Church. Also, the billing statements are not evidence of the petitioner's denomination; ordering supplies is not indicative of an organization's denomination.

There is no evidence from the National Conference of Seventh-day Adventists that the petitioner is, or ever has been, a member of its denomination. The petitioner claims that it shares the same "creed or statement of faith" as the Seventh-day Adventist church; however, the petitioner has not submitted any independent, corroborative evidence to support this claim. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. See Matter of Treasure Craft of California, 14 I&N Dec. 190 (Reg. Comm. 1972). The petitioner has asserted, and documented, the beneficiary's lengthy membership in the Seventh-day Adventist church; however, the petitioner has not documented its membership in the Seventh-day Adventist church. Accordingly, the petitioner has failed to establish that the beneficiary was a member of its denomination for the two-year period prior to filing.

Beyond the decision of the director, the petitioner has failed to establish that it made a valid job offer to the beneficiary as required at 8 C.F.R. 204.5(m)(4). Also, the petitioner has failed to establish that it has the ability to pay the proffered wage as required at 8 C.F.R. 204.5(g)(2). As the appeal will be dismissed on the grounds discussed, these issues need not be examined further.

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.