U.S. Department of Justice

Immigration and Naturalization Service

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

[redacted]

eleted to
unwarranted
invasion of personal privacy

File [redacted] Office: Nebraska Service Center

JAN 03 2002

IN RE: Petitioner:
Beneficiary: [redacted]

Petition: Petition for 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), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. 1101(a)(27)(C)

IN BEHALF OF PETITIONER: Self-represented

Public Copy

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

Mark L. Rosenberg

for Robert P. Wiemann, Director
Administrative Appeals Office

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

The petitioner is an individual who seeks classification as a special immigrant minister pursuant to section 203(b)(4) of the Immigration and Nationality Act (the "Act"), 8 U.S.C. 1153(b)(4), in order to be employed as the "associate minister" of a United States church at an undisclosed rate of remuneration.

The director denied the petition based on the failure of the petitioner to submit an ordination certificate as requested.

On appeal, the petitioner resubmitted a copy of his graduation certificate from the Western Christian College which includes the notation that he is ordained by the college to conduct ministry in the Churches of Christ denomination.

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, 2003, 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, 2003, 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).

The petitioner in this matter is described as a native and citizen of Canada who was last admitted to the United States in R-1 classification authorized for employment with the Great Falls Church of Christ in Great Falls, Montana. The petitioner seeks special immigrant classification as a minister to be employed by the Central Del Rio Church Of Christ in Del Rio, Texas.

Upon review of the record of proceeding, it appears that the director did not recognize the petitioner's intention that the graduation certificate also serves as an ordination certificate. However, the petition contains additional documentary deficiencies and may not be approved.

In order to establish eligibility for classification as a special immigrant minister, the petitioner must satisfy each of several eligibility requirements.

First, pursuant to 8 C.F.R. 204.5(m)(3)(i), a petitioner must establish that the prospective employer is a qualifying religious organization as defined in this type of visa petition proceeding in accordance with section 501(c)(3) of the Internal Revenue Code of 1986 as it relates to religious organizations.

The petitioner must provide verification of individual exemption from the U.S. Internal Revenue Service (IRS), proof of coverage under a group exemption granted by the IRS to the denomination, or such documentation as is required by the IRS. Such documentation to establish eligibility for exemption under section 501(c)(3) includes: a completed Form 1023, a completed Schedule A attachment, and a copy of the articles of organization showing, *inter alia*, the disposition of assets in the event of dissolution.

The petitioner in this matter submitted a statement from an official of the prospective employer asserting that it has the requisite tax exempt recognition from the IRS. This statement is not sufficient. The petitioner must submit the appropriate documentation of the church's tax exempt status.

Second, pursuant to 8 C.F.R. 204.5(m)(3)(ii), a petitioner must establish that the beneficiary is qualified as a minister as defined in these proceedings. 8 C.F.R. 204.5(m)(2) states, in pertinent part, that the term *Minister* means an individual duly authorized by a recognized religious denomination to conduct religious worship and to perform other duties usually performed by authorized members of the clergy of that religion.

In this case, the petitioner submitted a graduation certificate from Western Christian College certifying that he was awarded a Bachelor of Theology degree on May 3, 1997, and that he was ordained by the college as a minister of the Churches of Christ denomination.

It must be concluded that this document is insufficient to satisfy the petitioner's burden of proof. The petitioner failed to submit any documentation from an authorized official of the Churches of Christ denomination verifying that Western Christian College is affiliated with the denomination and that the denomination recognizes the alien petitioner as an ordained minister authorized to conduct religious worship and to perform other duties usually performed by authorized members of the clergy in the United States. The statement from an official of the individual church at which the petitioner would be employed is insufficient to satisfy this requirement.

Third, pursuant to 8 C.F.R. 204.5(m)(1), a petitioner must establish that the alien beneficiary was solely and continuously carrying on the vocation of a minister for at least the two years preceding the filing of the petition. See also Matter of Faith Assembly Church, 19 I&N 391 (Comm. 1986).

The petition in this matter was filed on March 13, 2000. Therefore, it must be established that the alien was continuously and solely carrying on the vocation of an ordained minister of the denomination since at least March 13, 1998.

In this case, the petitioner asserted that he commenced service as a minister on May 5, 1997, that he served with a church in Canada and then with a church in the United States. The petitioner submitted testimony from officials of two United States churches to corroborate his testimony. However, the petitioner did not specify that he was solely engaged as a minister of religion during the two-year period. Nor did he submit proof of his employment history in the United States such as copies of his federal tax returns and copies of his travel documents. Based on the record as constituted, it cannot be concluded that the petitioner has satisfied this requirement.

Fourth, 8 C.F.R. 204.5(m)(4) requires that the prospective employer submit a detailed job offer specifying the terms of remuneration and demonstrate that the alien seeks admission solely for the purpose of serving in a religious vocation.

The job-offer letter submitted by the petitioner stated that the beneficiary would be supported by the church, but failed to state the terms of remuneration or show how the beneficiary would be solely carrying on the vocation of a minister. It is noted that the Del Rio Church of Christ has only 130 members and already has a minister. It is unclear that the small church has the ability and the intention to support two full-time ministers without the alien being required to resort to supplemental employment.

Fifth, 8 C.F.R. 204.5(g)(2) requires a prospective employer to submit its annual reports, federal tax returns, or audited

financial statements to demonstrate the ability to pay the proffered wage.

The petitioner failed to submit such required documentation.

The record will be remanded to allow the petitioner the opportunity to supplement the record. The director shall then review the additional evidence and issue a new decision.

ORDER: The record is remanded.