U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

PUBLIC COPY

[redacted]

File: WAC 01 218 50759 Office: CALIFORNIA SERVICE CENTER Date: AUG 22 2003

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)

ON BEHALF OF PETITIONER: SELF-REPRESENTED

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 that 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 that 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 Bureau of Citizenship and Immigration Services (Bureau) 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 that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Director, California Service Center. The matter is now before the Administrative Appeals Office (AAO) 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 perform services as a "director of evangelism and visitation." The director determined that the petitioner had not established that the beneficiary had been engaged continuously in a qualifying religious vocation or occupation for the two years immediately preceding the filing date of the petition.

On appeal, the petitioner submits a statement.

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).

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

> Such a petition may be filed by or for an alien, who (either abroad or in the United States) for at least the 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. The alien must be coming to the United States solely for the purpose of carrying on the vocation of a minister of that religious denomination, working for the organization at the organization's request in a professional capacity in a religious vocation or occupation for the organization or 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. All three types of religious workers must have been performing the vocation, professional work, or other work continuously (either abroad or in the United States) for at least the two-year period immediately preceding the filing of the petition.

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

The sole issue raised by the director in this proceeding is whether the beneficiary had been engaged continuously in a qualifying religious vocation or occupation for two full years immediately preceding the filing date of the petition.

The petition was filed on April 30, 2001. Therefore, the petitioner must establish that the beneficiary was working continuously as a religious worker from April 30, 1999 until April 30, 2001. The petitioner indicated on Form I-360, Petition for Amerasian, Widow, or Special Immigrant, that the beneficiary last entered the United States on May 20, 1999.

In response to a request for additional evidence, the petitioner stated that the beneficiary did not receive a salary during the requisite period because her mother provided her financial support. The petitioner also stated that the beneficiary had been a member of the church since January 1999, and that the position offered to the beneficiary required no experience, a "college" degree, and three months of unspecified training. The petitioner stated that the beneficiary would receive $400 per week during her first year of employment, $440 during the second year, and $480 during the third.

In other submissions dated April 24, 2001, however, the petitioner stated that the beneficiary had been a member of its church since

April 1998, and that she had worked for the petitioner as a "female Evangelist and Bible teacher." The petitioner also stated that the beneficiary's employment would begin in May 2001, with a starting salary of $1,280 per month.

Included in the record is a translation of the beneficiary's diploma indicating that she completed her studies in 1976, having received a Master of Arts in English Language and Literature from the Kon-Kuk University in Seoul, Korea. Also included in the record is a "certificate of completion" from the International Bible College, School of Christian Education, Los Angeles, California, indicating that the beneficiary completed a course of study in Early Childhood Education in 1990. The transcript accompanying this degree indicates that she completed five courses in childhood education and development from 1989 to 1990.

On appeal, the petitioner states that the beneficiary's duties during the requisite period were performed on a volunteer basis only because the beneficiary was not permitted to obtain employment due to her immigration status. The petitioner asserts that the beneficiary's "education, experience, and faithfulness" strongly qualify her for the position. Simply going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). The petitioner also submits evidence establishing his own credentials and support to the community and the nation.

The record does not list the duties of the position, nor does it provide a comprehensive description of the beneficiary's activities during the two-year period immediately preceding the filing date of the petition. Further, the fact that the beneficiary did not enter the United States until May 1999, precludes a finding that she worked for the petitioner since April 1998. The petitioner offers no explanation of this discrepancy. The petitioner has not provided sufficient evidence to establish that the beneficiary was continuously performing the duties of a qualifying religious vocation or occupation throughout the two-year period immediately preceding the filing date of the petition. Therefore, the decision of the director is affirmed and the petition is denied.

Beyond the decision of the director, the petitioner also has not established that the position offered to the beneficiary qualifies as that of a religious worker, and that the beneficiary is qualified to perform the duties of a religious worker. To establish that the job offered is a religious occupation, a petitioner for a special immigrant religious worker must show the religious nature of the work, the religious training required to do the job, and how the alien has met the training requirements. To establish that the job offered is a religious vocation, a petitioner must show that the job requires the taking of vows or a

permanent commitment to a religious life, and that the alien has taken the requisite vows or made the requisite commitment. In addition, the petitioner has not submitted sufficient evidence to establish that the beneficiary has been presented with a valid job offer, or that the petitioner has had the ability to pay the beneficiary the proffered wage since the filing date of the petition. As the appeal will be dismissed on the grounds discussed, these issues need not be examined further.

In reviewing an immigrant visa petition, the Bureau must consider the extent of the documentation furnished and the credibility of that documentation as a whole. The petitioner bears the burden of proof in an employment-based visa petition to establish that it will employ the alien in the manner stated. See *Matter of Izdebska*, 12 I&N Dec. 54 (Reg. Comm. 1966); *Matter of Semerjian*, 11 I&N Dec. 751 (Reg. Comm. 1966).

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden.

ORDER: The appeal is dismissed.