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**U.S. Department of Homeland Security**

Bureau of Citizenship and Immigration Services

**identifying data deleted to prevent clearly unwarranted invasion of personal privacy**

[redacted]

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

File: [redacted] Office: VERMONT SERVICE CENTER Date: AUG 28 2[illegible]

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:

[redacted]

PUBLIC COPY

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 of the Vermont Service Center and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a Korean Baptist church seeking 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), in order to employ him as an associate pastor.

The director denied the petition, finding that the petitioner had failed to establish that the beneficiary is qualified as a minister in the denomination. The director further determined that the petitioner had failed to establish that the beneficiary had been continuously employed in the proffered position for the two years immediately preceding the filing date of the petition.

On appeal, counsel asserts that the Bureau failed to give due consideration to all the evidence submitted.

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 first issue to be addressed in this proceeding is whether the petitioner has established that the beneficiary is qualified as a minister in the denomination. The director stated that the petitioner had not explained the standards required to be recognized as a minister in the denomination or shown that the beneficiary had satisfied such standards. The director further stated that the petitioning church had not submitted a letter from an authorized official of the denomination in the United States verifying the beneficiary's credentials as an associate pastor. Finally, the director stated that the beneficiary's certificate of ordination is not sufficient proof that he is qualified as an associate pastor in the absence of evidence substantiating the beneficiary's theological education.

On appeal, counsel states that the beneficiary meets the denomination's standards for the job of associate pastor and had in fact served as an ordained minister in Korea for 16 years as of the filing date of the petition.

Pursuant to 8 C.F.R. § 204.5(m)(3), each petition for a religious worker must be accompanied by:

> (ii) A letter from an authorized official of the religious organization in the United States which (as applicable to the particular alien) establishes:
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> * * *
>
> (B) That, if the alien is a minister, he or she has authorization to conduct religious worship and to perform other duties usually performed by authorized members of the clergy, including a detailed description of such authorized duties. In appropriate cases, the certificate of ordination or authorization may be requested.

The word "minister" is defined at 8 C.F.R. § 204.5(m)(2) as follows:

> *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 all cases, there must be a reasonable connection between the activities performed and the religious calling of the minister. The term does not include a lay preacher not authorized to perform such duties.

The director stated that the beneficiary's certificate of ordination is not sufficient to show that he is authorized by the denomination to perform the duties of an associate pastor in the absence of evidence demonstrating his educational preparation for

his service as a minister.

The record shows that the beneficiary was awarded a Bachelor of Arts degree in Theology by the Korea Baptist Theological University/Seminary in Seoul, Korea on February 22, 1980. The record contains a copy of the beneficiary's diploma and transcript from that institution.

The beneficiary completed three semesters toward a Master of Arts degree in Theology at the same institution in 1989. It does not appear that he actually completed the program or received a master's degree in theology.

The record contains a "Certificate of Ordainment" stating that the beneficiary was ordained as a minister at Saepohang Baptist Church, a member church in the Korea Baptist Convention, on February 27, 1986. Therefore, the petitioner has shown that the beneficiary is ordained as a Baptist minister.

The director also determined the petitioner had not shown that the beneficiary was continuously serving as a minister for at least the two-year period immediately preceding the filing date of the petition.

On appeal, Rev. Do states that the beneficiary had served as an ordained Baptist minister in Korea for 16 years as of the filing date of the petition.

Pursuant to 8 C.F.R. § 204.5(m)(1):

> 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.

The petition was filed on July 26, 2001. Therefore, the petitioner must establish that the beneficiary had been continuously and solely carrying on the occupation of assistant pastor since at least July 26, 1999.

In support of the initial I-360 petition, the petitioning church submitted a "Certificate of Experience" from the Korea Baptist Convention describing the beneficiary's experience as a pastor in Korea as follows:

From May 1, 1985 to October 31, 1995 the beneficiary was pastor of Songlim Baptist Church.

From November 1, 1995 to December 30, 1996 the beneficiary was pastor of Munhwa Baptist Church.

From January 1, 1997 to February 28, 2001 the beneficiary was

pastor of New World Baptist Church.

On appeal, the petitioning church submitted a new "Certificate of Experience" that describes the beneficiary's experience as a minister in Korea as follows:

From February 1986 to February 1997 the beneficiary served Saepohang Baptist Church of Seoul, Korea as minister.

The beneficiary served the New World Baptist Church of Seoul, Korea as a minister from February 1997 until his resignation on July 31, 2001.

The Bureau notes the following discrepancies in the beneficiary's claimed dates of service as a minister in Korea:

1. The "Certificate of Experience" submitted in support of the initial petition indicates that the beneficiary served Saepohang Baptist Church from May 1, 1985 to October 31, 1995. The "Certificate of Experience" submitted on appeal indicates that the beneficiary served that church as minister from February 1986 to February 1987.

2. The initial "Certificate of Experience" indicated the beneficiary served Munhwa Baptist Church as minister from November 1, 1995 to December 30, 1996. The "Certificate of Experience" submitted on appeal does not even mention Munhwa Baptist Church.

3. According to the initial "Certificate of Experience," the beneficiary served New World Baptist Church as a minister from January 1, 1997 to February 28, 2001. The "Certificate of Experience" submitted on appeal states that the beneficiary served New World Baptist Church as a minister from February 1997 until his resignation on July 31, 2001. Neither counsel nor Rev. Do has provided any explanation for these discrepancies and contradictions in the beneficiary's claimed dates of service as a minister in Korea. Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. Furthermore, it is incumbent on the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies will not suffice. *Matter of Ho*, 19 I&N Dec. 582. (Comm. 1988).

It is further noted that the beneficiary could not have been engaged in full-time service as a minister for New World Baptist Church in Korea until July 31, 2001. The beneficiary entered the United States as a nonimmigrant B-2 visitor for pleasure on March 6, 2001, and has remained in the United States since that date.

The petitioning church has not advanced a claim that the beneficiary served as its assistant pastor during the period in question or submitted any evidence to document such a claim. Therefore, it appears that there is a gap in the beneficiary's service as a minister from February 2001 to July 26, 2001, the filing date of the petition. For this reason, it cannot be concluded that the beneficiary had been continuously serving as a full-time minister during the two-year period immediately preceding the filing date of the petition.

Further, while the determination of an individual's status or duties within a religious organization is not under the Bureau's purview, the determination as to the individual's qualifications to receive benefits under the immigration laws of the United States rests within the Bureau. Authority over the latter determination lies not with any ecclesiastical body but with the secular authorities of the United States. *Matter of Hall,* 18 I&N Dec. 203 (BIA 1982); *Matter of Rhee*, 16 I&N Dec. 607 (BIA 1978).

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.