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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

[redacted]

File: [redacted] Office: California Service Center Date: SEP 04 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: [redacted]

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

 [redacted]

DISCUSSION: The immigrant visa petition was denied by the Director, California Service Center, and 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 minister pursuant to section 203(b)(4) of the Immigration and Nationality Act (the "Act"), 8 U.S.C. § 1153(b)(4).

The director denied the petition based on adverse evidence acquired in an attempt to verify the beneficiary's claimed employment for the petitioner.

On appeal, counsel stated that the beneficiary has been and continues to be youth minister for the petitioner.

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 is a church affiliated with the [redacted] It did not provide a description of the size of its congregation. The

beneficiary is a native and citizen of Guatemala who last entered the United States without inspection on or about May 4, 1990. Therefore, it is concluded that the beneficiary has resided in the United States since admission in an unlawful status. The petitioner indicated on the petition that the beneficiary has never been employed in the United States without authorization.

The record reveals that the petition was filed on September 12, 1994 and that reverend [redacted] signed the petition on behalf of Templo Juan 3:16. The record further indicates that on May 6, 1998, the petitioner was informed in a notice of intent to deny that the Bureau had acquired adverse evidence regarding both the signer of the petition and the beneficiary's purported employment. The notice stated, in pertinent part, that:

> A letter received from the [redacted] stated that the authorized officer signing for the petitioner, "Mr [redacted] does not function in any official capacity of [redacted]. He no longer [is] a minister with the assemblies of God."

The aforementioned letter was dated September 4, 1997. Therefore, it may be concluded that reverend [redacted] left his position as pastor of [redacted] during the three years subsequent to the filing of the petition, and that he no longer represents [redacted]

The notice further stated that a Bureau officer contacted the present pastor of [redacted] and was informed that "this applicant, [the beneficiary], is not an employee of [redacted] and there is no job offer for him." The record indicates that the telephone conversation between the Bureau officer and the pastor of [redacted] took place on September 3, 1997.

The petitioner did not respond to the bureau's notice of intent to deny, and the director denied the petition on April 12, 2000.

On appeal, counsel stated that [redacted] is still pastor of [redacted] and that he is still authorized to sign on behalf of the church. Counsel further stated that the beneficiary has been and continues to be youth minister for [redacted] Counsel does not, however, submit any evidence to corroborate his claim on appeal. 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).

Furthermore, 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. It is incumbent upon 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 (BIA 1988).

Absent a credible and consistent explanation of the beneficiary's purported employment, it must be concluded that the petitioner has failed to establish that a qualifying offer of employment has been tendered to the beneficiary. For this reason, the petition may not be approved.

The petitioner bears the burden to establish eligibility for the benefit sought. The Bureau must consider the credibility of the evidence of record 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); *See 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.