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U.S. Department of Homeland Security

Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 MASS, 3/F
425 I Street N.W.
Washington, D.C. 20536

[redacted]

File: WAC 02 027 59220 Office: CALIFORNIA SERVICE CENTER Date: SEP 12 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)

PUBLIC COPY

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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 Citizenship and Immigration Services (CIS) 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, 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), in order to employ him as a minister.

The director denied the petition, finding that the petitioner failed to establish that the beneficiary had been continuously carrying on the vocation of a minister for at least the two years preceding the filing of the petition.

On appeal, the petitioner submits additional evidence.

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 a Pentecostal church claiming an affiliation with the Worldwide Pentecostal Church of Christ in

Manila. The beneficiary is a 38-year old native and citizen of the Philippines who entered the United States as a B-2 nonimmigrant visitor for pleasure on December 26, 2000.

At issue in this proceeding is whether the beneficiary had been continuously carrying on the vocation of a minister for the two years preceding the filing of the petition.

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

> 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 the case of special immigrant ministers, the alien must have been engaged solely as a minister of the religious denomination for the two-year period in order to qualify for the benefit sought and must intend to be engaged solely in the work of a minister of religion in the United States. *Matter of Faith Assembly Church*, 19 I&N Dec. 391 (Comm. 1986).

The petition was filed on October 9, 2001. Therefore, the petitioner must establish that the beneficiary had been continuously and solely carrying on the vocation of a minister of religion since at least October 9, 1999.

In response to a request for additional evidence, the petitioner submitted a letter from the pastor-in-charge at the Worldwide Pentecostal Church of Christ in Manila stating that:

> [The beneficiary] was a member of our ministerial staff prior to his going to the United States.
>
> As one of our ministers, he was in charged [sic] of our visitation team. His main duty was to visit the members who failed to come to church for the past two Sundays. He was also in charged [sic] of visiting the sick in the hospitals. From time to time he would administer water baptism to our converts.
>
> His financial support came from the offering of the church. He was also receiving some assistance from his parents.

The pastor of the petitioning church wrote CIS that:

> Since the ordination of [the beneficiary] on March 1997, he was involved in volunteer work until December 26, 2000. His volunteer work consisted of visitation, member follow-up, baptism and annual General Conference

> coordinator. During that time of involvement in his ministry, he was also helping at a family business of rice distribution owned by his parents. His parents supported his ministry by providing financial assistant to him and his family. He occasionally received offering from the church as well.
>
> On December 26, 2000, the beneficiary arrived in the United States to visit various churches. On April 2001 he started doing volunteer work at my church mainly to reach the Filipino community at Fresno. He is still currently involved at my church teaching Bible Studies to new converts and Outreach Ministry. During his stay in the United States, he is being supported financially by his parents and his personal savings. In addition, he also receives offerings from my church. His relatives provides accommodations for he and his family.

[Sic.] The director found the evidence was insufficient to establish that the beneficiary had been performing full-time work as a minister for the two-year period preceding the filing of the petition.

In review, the AAO concurs. In the absence of W-2's and certified tax records, the Bureau is unable to ascertain how and whether the beneficiary had been employed in the two-year period preceding the filing of the petition. According to the evidence on the record, the beneficiary was volunteering his time on a part-time basis and there was a hiatus of four months during which time he was not serving as a minister.

Furthermore, the petitioner made no claim and submitted no evidence that the beneficiary had been engaged "solely" as a minister of religion during the two-year period or that he would be solely engaged as a minister with the petitioning church. In fact, the petitioner indicated that the beneficiary had volunteered in the Philippines on a part-time basis as he was also working in the family rice distribution business. For this reason as well, the petition may not be approved.

Beyond the decision of the director, the petitioner failed to establish that the beneficiary is qualified as a minister as defined in the pertinent regulations. In order to establish that an alien is qualified as a minister of religion for the purpose of special immigrant classification, simply producing documents purported to be certificates of ordination, which are not based on theological training or education, is not proof that an alien is entitled to perform the duties of a minister. *Matter of Rhee*, 16 I&N Dec. 607 (BIA 1978). Since the appeal will be dismissed for the reasons stated above, this issue will not be analyzed further.

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.