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U.S. Department of Homeland Security

Citizenship and Immigration Services

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

File: WAC-01-218-50361 Office: California Service Center Date: SEP 15 2003

IN RE: Petitioner: [redacted]
Beneficiary:

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

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 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 Acting 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 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 minister/youth minister.

The acting director denied the petition finding that the beneficiary had not been an ordained minister for at least the two years prior to the filing of the petition.

On appeal, the petitioner's representative states that the Church of the Nazarene authorizes individuals to perform the duties of a minister whether or not they are ordained and that the beneficiary has been performing pastoral duties for over the requisite two years.

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).

At issue in this proceeding is whether the beneficiary has been engaged continuously in a qualifying religious vocation or occupation for two full years immediately 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.

The petition was filed on April 30, 2001. Therefore, the petitioner must establish that the beneficiary had been continuously carrying on the religious occupation or vocation since at least April 30, 1999.

The petitioner submitted documentation showing that the beneficiary was ordained as a minister on March 24, 2001. The director therefore concluded that the beneficiary did not satisfy the two-year experience requirement for the proposed position of associate pastor/youth minister with the petitioning organization.

On appeal, the petitioner's reverend asserts that the beneficiary has been serving as a pastor for the requisite two years even though he was not ordained until March 2001.

The term "continuously" has been used in the past in recognition of religious workers. In *Matter of Varguhese, 17 I&N, Dec, 712 (Reg Can 1963)*, it was determined that a minister of religion was not "continuously" carrying on the vocation of minister where it was shown that he was a full time student who was devoting only nine hours a week to religious duties. Although the time frames in the case at hand are different, the evidence of record indicates that the beneficiary was enrolled as a full time student at Asia-Pacific Nazarene Theological Seminary during the 2000-2001 school year and, therefore, could not have been working as a full time minister since 1999. The record further indicates that the beneficiary worked for several Churches of the Nazarene for a total of 40 days from March 7, 1999 to April 30, 2001. The beneficiary's volunteer or part-time work does not constitute continuously carrying on religious work as contemplated by Congress.

Further, the petitioner's argument that the beneficiary, although not ordained, was allowed to continually perform ministerial functions is not persuasive. The record is not sufficient in demonstrating that the beneficiary has been continually employed in a religious vocation or occupation for at least the two year period immediately preceding the filing of the petition. For this reason, the petition may not be approved.

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.