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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

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 16 2002

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.

for Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The petition was initially approved by the Director of the California Service Center. Based upon information obtained by the United States consul in Addis Ababa, the director subsequently determined that the beneficiary was not clearly eligible for the benefit sought. Accordingly, the director served the petitioner with notice of his intent to revoke approval of the visa petition and his reasons therefore. The director subsequently revoked his approval of the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained. The revocation of approval of the petition will be withdrawn and the petition will be approved.

The petitioner is an Ethiopian Orthodox 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), in order to employ him as a priest.

The director initially approved the petition on July 20, 1994. When the beneficiary appeared at the District Office in Los Angeles, California for his adjustment of status interview, the interviewing officer noted that the beneficiary appeared to have been ordained at the age of 13 according to his ordination certificate. The officer requested that the United States Embassy in Addis Ababa conduct an investigation to determine whether the beneficiary's certificate of ordination was genuine and whether the beneficiary's claimed service as a priest in Addis Ababa and Georgetown, Guyana during the two-year qualifying period was bona fide.

In his investigation report, the consular officer stated:

> In response to your request of October 16, 1995, we investigated the claims of [redacted] Based on our investigation, we have learned that he was not documented as having been a priest at St. Mary's Ethiopian Church in Addis Ababa from September 1976 to July 1993. In fact, the church officials with whom we spoke had neither a record of nor had [they ever] heard of [redacted] The officials were baffled as to how Mr. [redacted] obtained the Ethiopian Orthodox Church Certificate of Ordination.

In response to a verification request from the U.S. consul, an official of the Ethiopian Orthodox Church in Ethiopia indicated with his signature and seal that the beneficiary's Certificate of Ordination was fraudulent. The director subsequently revoked his approval of the petition, finding that the petitioner had not submitted sufficient evidence to overcome the derogatory information detailed in the consular officer's report.

On appeal to the revocation, counsel submits a brief and additional documentation.

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,
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> (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).

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:

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:

> (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 or 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.

The first issue to be addressed in this proceeding is whether the petitioner has established that the beneficiary is a bona fide priest in the Ethiopian Orthodox Church.

On appeal, counsel states that the beneficiary is a bona fide priest in the Ethiopian Orthodox Church. Counsel explains that the consular officer's determination of fraud was based on erroneous information obtained from an interested party in a politically-motivated dispute between the petitioning church and certain officials of the church in Ethiopia. Counsel submits additional evidence in support of his statements.

The record shows that the beneficiary, a native and citizen of Ethiopia, was born on November 5, 1958 and baptized into the

Ethiopian Orthodox Church on December 14, 1958. He was ordained as a priest in the Ethiopian Orthodox Church on April 29, 1976 at the age of 18.[1] The record contains a photocopy of the beneficiary's ordination certificate indicating that the beneficiary was born in 1950 (Ethiopian calendar) and ordained as a priest on April 29, 1968 (Ethiopian calendar). The interviewing officer's confusion concerning the beneficiary's age at the time of ordination may be based on the eight-year difference between the Gregorian and the Ethiopian calendars. Nevertheless, it appears that the beneficiary was ordained at the age of 18.

In order to understand the issues involved in this proceeding, it is necessary to summarize certain background events that took place prior to the filing date of the petition. In 1991, Ethiopia experienced a change of regime. The new government convened a church synod that deposed the sitting Patriarch of the Ethiopian Orthodox Church, Abuna Merkorios, and appointed a new Patriarch, Abuna Paulos. Abuna Merkorios subsequently went into exile and now lives in the United States, where he continues to lead an organization that identifies itself as the Ethiopian Orthodox Church in the Western Hemisphere.

Counsel contends that the failure of the church official in Ethiopia to verify the beneficiary's credentials as a priest related to the fact that the petitioning church refused to recognize Abuna Paulos as the new head of the Ethiopian Orthodox Church and also to a previous lawsuit between the petitioning church and Abuna Paulos.

After careful review of the entire record of proceedings, including all documentation submitted on appeal, it is concluded that the record contains sufficient evidence to overcome the grounds for revocation.

Even if the ordination certificate is not considered, the record contains the following documents that clearly show the beneficiary is a priest in the Ethiopian Orthodox Church:

1. A photocopy of the beneficiary's Ethiopian passport and

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[1] These dates have been corrected to reflect the equivalent dates in the Gregorian calendar. According to the Ethiopian calendar, the beneficiary was born on November 5, 1950, baptized on December 14, 1950, and ordained as a priest on April 29, 1968 at the age of 18.

U.S. nonimmigrant B-1/B-2 visitor's visa. The passport identifies the beneficiary is [redacted] ("Abba" is a religious title within the Ethiopian Orthodox Church.) The beneficiary's photograph depicts him in the traditional attire of Ethiopian Orthodox priests, and his occupation in the passport is identified as [redacted] a specific level of priesthood within the denomination.

2. A letter from Abuna Thaddeus, Bishop of the Ethiopian Orthodox Tewahedo Church in the Caribbean and Latin America, to the U.S. Ambassador in Georgetown, Guyana. Abuna Thaddeus identifies the beneficiary, [redacted]," as the priest-in-charge of the Ethiopian Orthodox Church in Guyana and requests that the beneficiary be granted a non-immigrant B-1 visitor's visa in order to travel back and forth from the United States on official church business.

3. A letter to the beneficiary from the Archbishop of the Ethiopian Orthodox Church, Wello Administrative Region Diocese, appointing him Arch Mandrite and Assistant to the Archbishop in that diocese.

4. A letter dated September 25, 1990 to the beneficiary from Abba Thomas, Archishop for Wellega & Assosa Diocese in Ethiopia, appointing him administrator of the Nekiempti Debre Tsion St. Mary's Church.

5. The minutes of a meeting of the Holy Synod of the Ethiopian Orthodox Church that took place in Addis Ababa on January 27, 1993. This meeting, which was headed by Abuna Paulos, was called in response to a request for additional priests to serve underserved churches in the United States, Canada, Guyana, and Trinidad. The minutes of the meeting show that the beneficiary was selected to head an Ethiopian Orthodox Church in Georgetown, Guyana.

6. A letter to the beneficiary from the General Manager, Patriarchate Head Office in Addis Ababa, informing him that he had been selected to head the church in Georgetown, Guyana.

7. A letter from Archbishop Markos, Assistant Patriarch of the Ethiopian Orthodox Church in the Western Hemisphere, affirming that the beneficiary is an ordained priest in the church.

8. A letter from Abba Merkorios, Patriarch of the Ethiopian Orthodox Church in the Western Hemisphere, affirming that the beneficiary is a priest in the Ethiopian Orthodox Church and the beneficiary's certificate of ordination is genuine.

9. A letter from Tewolde Gebru, Personal Secretary to Abuna Paulos, affirming that the beneficiary is a priest in the Ethiopian Orthodox Church and that his ordination certificate is genuine. He further states that the church official who indicated that the beneficiary's ordination certificate was fraudulent had been removed from office in April of 1996 for "abuse of authority" and also because he was "unqualified for the job."

10. A letter dated December 9, 1992 informing the beneficiary he had been appointed as Administrator of Debre Tsehay St. George's Church in Addis Ababa as of December 11, 1992.

11. A letter dated August 27, 1993 from Abba Thaddeus to the General Administrator of the church in Ethiopia providing the proper spelling of names and a listing of the bank account numbers of three Ethiopian Orthodox priests in the Caribbean area, including himself, a priest in Tobago, and the beneficiary in Guyana.

12. An affidavit from Donald Levine, Professor of Sociology at the University of Chicago and a foremost authority on Ethiopia, affirming the facts of the case as described by counsel.

No forensic examination of the beneficiary's ordination certificate has ever been requested or conducted. The approval of the petition was revoked based solely on the statement of one official of the Ethiopian Orthodox Church in Ethiopia who appears to have been politically motivated in arriving at a finding of fraud, an official who has since been removed from office for personal misconduct. The record contains numerous documents that support a finding that the beneficiary is a bona fide priest within the Ethiopian Orthodox Church. There does not appear to be any reason to question the authenticity of these documents. Therefore, it is concluded the petitioner has submitted sufficient evidence to show that the beneficiary is indeed a bona fide priest within the Ethiopian Orthodox Church.

The second issue to be addressed in this proceeding is whether

the beneficiary had been continuously serving as a priest in the Ethiopian Orthodox Church during the two-year period immediately preceding the filing date of the petition.

On appeal, counsel states that the beneficiary served as a priest in Ethiopian Orthodox Churches in Ethiopia, Georgetown, Guyana, and at the petitioning church during the two-year qualifying period.

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 April 18, 1994. Therefore, the petitioner must establish that the beneficiary was continuously performing in the capacity of a priest since at least April 18, 1992.

The record shows that the beneficiary was ordained as a priest on January 7, 1976. The record contains a letter from an official of the Ethiopian Orthodox Church in Ethiopia outlining the beneficiary's years of service as a priest as follows:

1. From 1976 to 1990 he served as a priest and administrator in St. Mary's Church in Nekempte, Ethiopia.

2. From 1990 to 1992 he served as a priest and preacher at St. Joseph's Church in Addis Ababa, Ethiopia.

3. From 1992 to 1993 he served as a priest and administrator in Debre Tsehay St. George's Church in Addis, Ababa, Ethiopia.

4. From 1993 to 1994 he served as a priest and preacher in Holy Trinity Ethiopian Orthodox Tewahedo Church in Georgetown, Guyana.

5. Since his arrival in the United States, he has served the petitioning church as a priest.

The record contains numerous documents that corroborate the

beneficiary's service as a priest as outlined above. As previously stated, there does not appear to be any reason to question the authenticity of these documents. Therefore, it is concluded the petitioner has overcome this portion of the director's objections as well. Since both of the director's objections have been overcome, the petition may 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, that burden has been met.

ORDER: The appeal is sustained. The revocation of approval of the petition is withdrawn and the petition is approved.