C1

U.S. Department of Homeland Security

Citizenship and Immigration Services

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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

[redacted]

File: [redacted] Office: VERMONT SERVICE CENTER Date: SEP 30 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:

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

The petitioner is a 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 her as a missionary minister.

The director denied the petition, finding that the petitioner failed to establish that the offered position qualifies as a religious occupation for the purpose of special immigrant classification, and that the beneficiary has had the requisite two years of continuous experience in a religious occupation. The director further found that the petitioner failed to establish that the beneficiary was qualified for the proffered position.

On appeal, the petitioner submits a statement.

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 beneficiary is a native and citizen of Jamaica. According to the information provided on the petition, the beneficiary entered the United States as a B-2 nonimmigrant visitor for pleasure on November 8, 1993. The petitioner established that it is a qualifying religious organization.

The first issue to be addressed in this proceeding is whether the petitioner established that the beneficiary is qualified for the proffered position.

8 C.F.R. § 204.5(m)(3) states, in pertinent part, that 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:
>
> * * *
>
> (D) That, if the alien is to work in another religious vocation or occupation, he or she is qualified in the religious vocation or occupation.

The petitioner submitted a letter from the Right Reverend Dr. Cyrill Malachi Barnett, Bishop and Primate of the Pilgrim Church of God Inc. Worldwide, that states that the beneficiary "has full authorization to conduct all Ministerial Services," and "upon completion of the current sixteen week refresher training courses the beneficiary will receive necessary promotion."

In review, it is not clear that the beneficiary was qualified for the proffered position as of the date of filing the instant petition.

The second issue to be addressed in this proceeding is whether the petitioner established that the proposed position constitutes a qualifying religious occupation for the purpose of special immigrant classification.

8 C.F.R. § 204.5(m)(2) states, in pertinent part, that:

> *Religious occupation* means an activity which relates to a traditional religious function. Examples of individuals in religious occupations include, but are not limited to, liturgical workers, religious instructors, religious counselors, cantors, catechists, workers in religious hospitals or religious health care facilities, missionaries, religious translators, or religious broadcasters. This group does not include janitors, maintenance workers, clerks, fund raisers, or

> persons solely involved in the solicitation of donations.

To establish eligibility for special immigrant classification, the petitioner must establish that the specific position that it is offering qualifies as a religious occupation as defined in the regulations.

The statute is silent on what constitutes a "religious occupation" and the regulation states only that it is an activity relating to a traditional religious function.

In this case, the petitioner did not provide a job description until the appeal. On appeal, the petitioner lists the beneficiary's job duties as the following:

> Begin the week prayer in church
> Evening prayer meeting in church
> Visitation with full record keeping class
> Street soul winning with record keeping
> Conduct bible study class
> Conduct prayer meeting service in church
> Follow up visiting with record keeping
> Training with records
> Conduct service rehearsal in church
> Teaching Sunday school class
> Worship
> Guidance Counseling
> Worship and gospel service
> 40 hours

In review, the petitioner failed to establish that the position is traditionally a permanent salaried position within the church or denomination. The petitioner failed to provide sufficient information to evaluate the proposed duties. For example, "visitation with full record keeping class" is vague.

The next issue to be addressed in this proceeding is whether the beneficiary had been continuously carrying on a religious occupation 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.

The petition was filed on August 11, 1997. Therefore, the petitioner must establish that the beneficiary was continuously carrying on a religious occupation since at least August 11, 1995.

The petitioner submitted a letter from its Bishop and Primate that states that the beneficiary has more than two years of continuous service prior to August 17, 1997. The petitioner also submitted certificates of ordination indicating that the beneficiary was not ordained as a missionary until August 17, 1997, after the instant petition was filed.

The statute and its implementing regulations require that a beneficiary had been continuously carrying on the religious occupation specified in the petition for the two years preceding filing.

In review, the petitioner has failed to establish that the beneficiary had been continuously carrying on the same religious occupation specified in the petition for the two years preceding the filing of the petition. Further, the petitioner failed to establish that the beneficiary has the required two years of experience in the religious occupation in the absence of any evidence to show that the beneficiary had been paid for her services.

In review, the petitioner has failed to overcome the director's objection to approving the petition.

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.