MATTER OF WU

In Visa Petition Proceedings

A-13457630

Decided by District Director February 23, 1966

Since a minister of religion is a member of the professions within the meaning of section 101(a)(32), Immigration and Nationality Act, as amended by P.L. 89-236, a visa petition is approved to accord beneficiary, a qualified minister of religion, preference classification under section 203(a)(3) of the Act.

The beneficiary is a 30-year-old citizen of China who is presently in the United States. In 1958 he received a bachelor of arts degree in English literature at the Taiwan Normal University, Taipei, Taiwan. He also received a bachelor of divinity degree in theology and Christian education at the McCormick Theological Seminary, Chicago, Illinois on May 14, 1965. Since May of 1965 he has been serving as pastor of the First Presbyterian Church, Hollister, Missouri.

The beneficiary is a minister of religion. However, he is not seeking status as a "special immigrant" under section 101(a)(27)(D)(i) of the Immigration and Nationality Act, as amended, which provides that:

(27) The term "special immigrant" means—

(D)(i) an immigrant who continuously for at least two years immediately preceding the time of his application for admission to the United States has been, and who seeks to enter the United States solely for the purposes of carrying on the vocation of minister of a religious denomination, and whose services are needed by such religious denomination having a bona fide organization in the United States; . . .

No visa petition has been submitted to accord the beneficiary classification as a minister of religion under the above-cited section for the reason that, whereas the approval by the Service of a visa petition was formerly required to classify an alien under section 101(a)(27)(D), the provisions of the Act of October 3, 1965 (P.L. 89-236) which became effective on December 1, 1965 no longer

require the filing of a visa petition or the approval of a visa petition as a condition precedent to such classification. Furthermore, the beneficiary does not, at this time, meet the requirement of section 101(a)(27)(D)(i) that he "continuously for at least two years immediately preceding the time of his application for admission to the United States has been . . . carrying on the vocation of minister of a religious denomination . . ."

Although lacking the two years in his vocation as a minister of religion required for classification as a "special immigrant," the beneficiary is seeking a preference classification under section 203(a)(3) of the Immigration and Nationality Act, as amended, which provides for such preference to be accorded to "qualified immigrants who are members of the professions, or who because of their exceptional ability in the sciences or the arts will substantially benefit prospectively the national economy, cultural interest, or welfare of the United States."

Section 101(a)(32) of the above Act states that "the term 'profession' shall include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academies, or seminaries."

While the vocation of minister of religion is not specifically mentioned in section 101(a)(32) of the Act, it is the view of this office that a person who has been graduated with a bachelor of divinity degree from an accredited school of divinity is a member of a profession within the meaning of that section. It is noted that the McCormick Seminary is listed in the publication "Accredited Higher Institutions" published by the United States Department of Health, Education and Welfare, Office of Education. That publication reflects that this seminary has been accredited by the American Association of Theological Schools Commission on Accrediting.

Section 204(a) of the Immigration and Nationality Act, as amended, provides that ". . . any alien desiring to be classified as a preference immigrant under section 203(a)(3) (or any person on behalf of such an alien) . . . may file a petition with the Attorney General for such classification." In accordance with this provision, the beneficiary has elected to file the petition in his own behalf. Under sections 204.1(c) and 204.2(f), Title 8, Code of Federal Regulations, a visa petition seeking to classify an alien as a preference immigrant under section 203(a)(3) of the Act, must be submitted to the Service with Form ES-575A, Application for Alien Employment Certification, executed in accordance with the instructions attached to that form, and accompanied by the evidence of the beneficiary's qualifications specified in those instructions. The alien has complied

with that requirement. The Form ES-575A and supporting documents were referred by this office to the Bureau of Employment Security, Department of Labor, for consideration of the issuance of a certification pursuant to section 212(a)(14) of the Immigration and Nationality Act, as amended by the Act of October 3, 1965. A certification was duly issued by that Department, indicating that a shortage existed in the United States of persons in the beneficiary's vocation, and that the beneficiary's employment in that vocation would not adversely affect the wages and working conditions of persons similarly employed.

It is concluded that the alien has established that he is a member of a profession within the meaning of section 203(a)(3) of the Act, as amended. He intends to engage in that profession within the United States. The certification required by section 212(a)(14) of the Act has been issued by an authorized representative of the Secretary of Labor.

It is ordered that the petition be and is hereby approved.