



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

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Falls Church, Virginia 20530

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31 Hopkins Plaza, Room 1600
Baltimore, MD 21201**

Name: CAMERON, OSWEN FITZHERBE... A 088-810-944

Date of this notice: 1/13/2014

Enclosed is a copy of the Board's decision and order in the above-referenced case.

Sincerely,

Donna Carr

Donna Carr
Chief Clerk

Enclosure

Panel Members:
Malphrus, Garry D.

williams
User team: Docket

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Falls Church, Virginia 20530

File: A088 810 944 – Baltimore, Maryland

Date: JAN 13 2014

In re: OSWEN FITZHERBERT CAMERON

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Dev A. Kayal, Esquire

ON BEHALF OF DHS: Diane H. Kier
Assistant Chief Counsel

The respondent, a native and citizen of Guyana, has appealed from an Immigration Judge's November 2, 2011, oral decision which found that he was inadmissible as charged under section 212(a)(7)(B)(i)(II) of the Immigration and Nationality Act, 8 U.S.C. 1182(a)(7)(B)(i)(II), and determined that he was not eligible for any relief from removal.¹ Both parties filed supplemental briefs pursuant to a request from this Board. The appeal will be dismissed.

We review an Immigration Judge's findings of fact, including the credibility determination, under the "clearly erroneous" standard. 8 C.F.R. § 1003.1(d)(3)(i). We review all other issues, including whether the parties have met the relevant burden of proof, and issues involving questions of law, judgement and discretion, under a de novo standard. 8 C.F.R. § 1003.1(d)(3)(ii). The respondent's case is governed by the REAL ID Act of 2005. *Matter of S-B-*, 24 I&N Dec. 42 (BIA 2006).

The respondent became a pastor for the National Wesleyan Church (NWC) in Hyattsville, Maryland in 2005 and he was issued an R-1 visa later that year. However, his relationship with the congregation deteriorated and he tendered his resignation on March 6, 2008, which was effective as of March 9, 2008. Although he claimed that he intended to seek employment with another church, he had not yet obtained other church employment when he departed the United States in April 2008. When the respondent attempted to reenter the United States on April 28, 2008, he was paroled in for deferred inspection on May 23, 2008. The Department of Homeland Security determined that, because he had resigned from the NWC and was no longer employed by his sponsoring church, he therefore no longer qualified for an R-1 visa.

We will affirm the Immigration Judge's November 2, 2011, decision. She determined that the respondent was inadmissible on April 28, 2008, because he no longer was employed by the same church which had sponsored his R-1 visa, and that it was immaterial whether he was seeking employment with another church at the time of his attempted reentry. The respondent has not shown any error in the Immigration Judge's decision.

¹ The Department of Homeland Security withdrew the removal charges under section 212(a)(5)(A)(i) of the Immigration and Nationality Act in the Notice to Appear (Exh. 1), and under section 212(a)(6)(C)(i) of the Act in the lodged charges (Exh. 1A).

Contrary to the respondent's arguments on appeal, it is irrelevant that his R-1 visa had not been cancelled by the time of his attempted reentry in April 2008. *Matter of Healy & Goodchild*, 17 I&N Dec. 22, 26 (BIA 1979). In addition, his contention that a faction of NWC's congregation was planning to form its own church and hire him as its pastor is unavailing because an R-1 worker cannot unilaterally decide to work for another employer which is different from the sponsoring organization. 8 C.F.R. §§ 214.2(r)(2), (13).

Because we have decided the appeal on the preceding basis, it is unnecessary to address the remaining contentions on appeal. Accordingly, the following order will be entered.

ORDER: The appeal is dismissed.



FOR THE BOARD

U.S. DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT

Baltimore, Maryland

File A 88 810 944

Date: November 2, 2011

In the Matter of

OSWEN CAMERON

Respondent

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)
)
)

IN REMOVAL PROCEEDINGS

CHARGE:

APPLICATION:

APPEARANCES:

ON BEHALF OF RESPONDENT:

Dev A. Kayal, Esquire

ON BEHALF OF THE DEPARTMENT
OF HOMELAND SECURITY:

Amy S. Paulick, Esquire

ORAL DECISION OF THE IMMIGRATION JUDGE

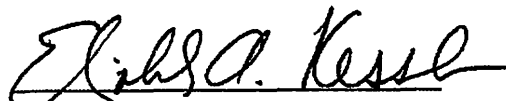
As the Court noted when the Court went back on the record, the Court does find that the Respondent is removable as charged. DHS had withdrawn the fraud charge and also the charge under INA Section 212(a)(5)(A)(i). After careful consideration of all the evidence, the Court did find that it would sustain allegations five and six. The Respondent had admitted allegations one through four and seven, and the Court is also sustaining that

charge under INA Section 212(a)(7)(B)(i)(II). Specifically, the Court concludes that even under the so called old regulations at Section 214.2(r), the Respondent has to have been coming to or remaining in the U.S. solely for one of the following purposes. One of those is as an employee of the religious organization, another as to carry on the vocation of a minister of the religious denomination. DHS did produce evidence at Group Exhibit 3 showing that the Respondent had resigned from the National Wesleyan Church. And I also note in the I-213, it does appear that the Respondent was straight forward on entry and did acknowledge that he was intending to come to the United States and have another church petition for him.

I do conclude, however, that he wasn't admissible when he entered because he wasn't intending to carry on his work as an employee or a minister of the original church, the National Wesleyan Church.

Accordingly, the Court hereby orders the Respondent removed from the United States to Guyana, and the Court is aware that the Respondent does have another church that's been trying to get a petition approved for him and that some efforts are still underway. If anything does work out, and any further action is

needed from the Court, I'd be happy to see the case back on remand or through any other appropriate action.


Judge Elizabeth A. Kessler
w/o IJ review EKM

ELIZABETH A. KESSLER
Immigration Judge

CERTIFICATE PAGE

I hereby certify that the attached proceeding before
ELIZABETH A. KESSLER, in the matter of:

OSWEN CAMERON

A 88 810 944

Baltimore, Maryland

was held as herein appears, and that this is the original
transcript thereof for the file of the Executive Office for
Immigration Review.

Donald R. Rush

Donald R. Rush, Transcriber

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January 4, 2012

Completion Date.

drd/mab