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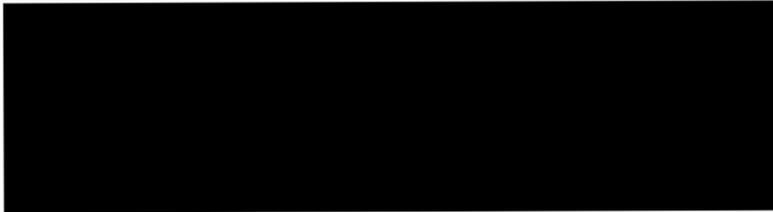
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: MAY 02 2006
WAC 04 024 52519

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.

Σ Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected. The AAO will return the matter for further action by the director.

The alien beneficiary seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as an alien of exceptional ability. The beneficiary is a church dissemination and management liaison officer for the Church of Scientology International. The beneficiary seeks an exemption from the requirement of a job offer, and thus of a labor certification, in the national interest of the United States. The director found that the beneficiary does not qualify for classification as an alien of exceptional ability, or for a national interest waiver of the job offer requirement.

Pursuant to 8 C.F.R. § 103.2(a)(1), every petition must be executed and filed in accordance with the instructions on the form. 8 C.F.R. § 103.2(a)(2) requires the petitioner to sign the petition. Part 8 of Form I-140, "Signature," is the portion of the form dedicated to the signature of the petitioner; instructions in Part 8 include the attestation that the contents of the petition are true and correct. Here, no church official signed Part 8 of the Form I-140. Instead, the alien beneficiary signed this part of the form. Thus, the alien herself took responsibility for the petition, and she, herself, must be considered to be the petitioner. [REDACTED] signed Part 9 of the Form I-140, "Signature of person preparing form," but by this signature, [REDACTED] merely attested that she "prepared this petition at the request of the above person," i.e., the actual petitioner. It may well be that both the alien beneficiary and [REDACTED] intended for the Church of Scientology International to be the petitioner, but [REDACTED] did not sign Part 8 of the Form I-140 and therefore the Church of Scientology has not formally accepted responsibility for the petition.

8 C.F.R. § 103.3(a)(1)(iii) states that, for purposes of appeals, certifications, and reopening or reconsideration, "affected party" (in addition to the Citizenship and Immigration Services) means the person or entity with legal standing in a proceeding. Here, the petitioner (i.e., the alien beneficiary) is the affected party. The Church of Scientology is not an affected party in this proceeding.

8 C.F.R. § 103.3(a)(2)(v) states that an appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded. As we have already observed, the petitioner did not file the appeal in this instance. The Church of Scientology International, which is not an affected party, filed the appeal. Therefore, we must reject the appeal submitted by the Church of Scientology International in the present proceeding.

Because the director failed to recognize that the alien beneficiary is the true petitioner in this case, the director mailed the notice of decision to the Church of Scientology International. We acknowledge that, in this instance, the beneficiary's mailing address is in care of that church; but the general principle stands that the director must serve notice of the decision on the petitioner him- or herself. 8 C.F.R. § 103.5a(a)(1) states that routine service consists of mailing a copy by ordinary mail addressed to a person at his or her last known address. The denial notice was not addressed to the petitioner. We cannot arbitrarily consider service to a different individual at the same address to be proper service. Therefore, the director has not properly served the petitioner with notice of the decision, and [REDACTED] was not acting as an authorized representative of the petitioner when she signed the Form I-290B Notice of Appeal.

In the event that the petitioner chooses to file a proper appeal from the director's decision, we note that the petitioner is at liberty to include statements or arguments from church officials if the petitioner so desires. The rejection of the present improperly filed appeal should not be construed to mean that we would disregard statements from church officials. The rejection means only that the church is neither the petitioner nor an accredited representative authorized to file appeals on the petitioner's behalf pursuant to 8 C.F.R. § 292.2(a). Any appeal filed by the petitioner must include a Form I-290B Notice of Appeal signed either by the petitioner herself, or by an attorney or accredited representative, in which case the appeal submission should include Form G-28 Notice of Entry of Appearance as Attorney or Representative signed by both the petitioner and the attorney or accredited representative.

Unless and until the affected party properly submits a timely appeal, we shall not discuss the merits of the director's decision or the rebuttal arguments offered by the Church of Scientology International.

The appeal has not been filed by the petitioner, nor by any entity with legal standing in the proceeding, but rather by the beneficiary. Therefore, the appeal has not been properly filed, and must be rejected. The director must serve a newly dated copy of the decision, properly addressed to the petitioner.

In the event that the petitioner chooses to file an appeal, we note here that, pursuant to 8 C.F.R. § 103.3(a)(2)(vii), the AAO is not required to accept untimely supplements to appeals. Rather, the petitioner must, in advance, demonstrate that good cause exists for a specified extension of time. The filing of an appeal does not secure for the petitioner an open-ended or indefinite period in which to supplement the record at will, and a petitioner cannot indefinitely suspend the adjudication of an appeal by repeatedly requesting small increments of additional time or by requesting an extension for an unspecified amount of time.

ORDER: The appeal is rejected. The matter is returned to the director for the limited purpose of the reissuance of the decision.