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U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
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Washington, D.C. 20536



File:

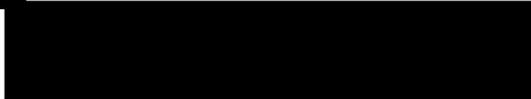


Office: Vermont Service Center

Date: 1 - MAR 2002

IN RE: Petitioner:

Beneficiary:



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)

IN BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Myra L. Rosenthal
for Robert P. Wiemann, Director
Administrative Appeals Office

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DISCUSSION: The immigrant visa petition was denied by the Director, Vermont Service Center. An appeal was rejected by the Associate Commissioner for Examinations. The matter is again before the Associate Commissioner on motion to reopen. The motion will be rejected.

The Form I-360 petition for special immigrant classification was filed by an official of the petitioning church on September 9, 1997. The petitioner was represented by legal counsel who submitted a properly executed Form G-28, Notice of Entry of Appearance as Attorney or Representative. The petition was denied by the center director on multiple grounds in a decision dated February 11, 1998. Copies of the decision were sent to the petitioner and to its duly authorized counsel.

According to 8 C.F.R. 292.4, appearance as attorney or representative in a visa petition proceeding must be filed on the appropriate form and must be signed by the petitioner. The appropriate form is the G-28.

A Form I-290B Notice of Appeal was untimely filed on March 20, 1998, by an unregistered representative, other than the petitioner's duly authorized counsel.

The Associate Commissioner, by and through the Director, Administrative Appeals Office ("AAO"), determined that the appeal could not be accepted without the submission of a properly executed Form G-28. Citing 8 C.F.R. 103.3(a)(2)(v), the AAO determined that the appeal was not filed by a registered representative, or a party with legal standing in the proceeding, and rejected the appeal in a decision dated September 28, 1999.

The petitioner's new representative now files a motion to reopen the proceeding and requested that additional evidence be accepted and considered. The representative submits two Form G-28s signed by an official of the petitioner and the beneficiary, respectively.

According to 8 C.F.R. 103.3(a)(2)(i), an appeal must be filed with the office where the unfavorable decision was made within 30 days after service of the decision. The improperly filed appeal was rejected and the time to appeal the decision of the center director of February 11, 1998 has lapsed. There is no provision allowing for the reopening of a rejected appeal. See 8 C.F.R. 103.3(a)(2)(v). Therefore, the instant motion must be rejected.

The petitioner is free to file a new petition without prejudice.

ORDER: The motion is rejected.