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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

*ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 MASS, 3/F
Washington, D.C. 20536*

JUN 05 2003

File: [REDACTED]
(LIN-01-169-50858)

Office: Nebraska Service Center

Date:

IN RE: Petitioner: [REDACTED]
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

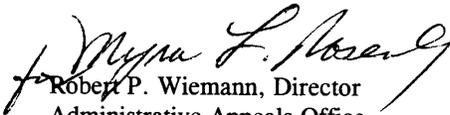
INSTRUCTIONS:

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 the Bureau of Citizenship and Immigration Services (Bureau) 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, Nebraska Service Center. The matter is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The petitioner is a Buddhist temple. It seeks 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), to perform services as a religious minister/buddhist monk at a salary of \$950 a month.

The petition was denied in a decision dated March 27, 2002. Counsel for the beneficiary filed a Form I-290B, Notice of Appeal, on April 26, 2002. The appeal was accompanied by a duly executed Form G-28, Notice of Entry of Appearance as Attorney or Representative. The Form G-28 was signed by the beneficiary, not by an authorized official of the petitioner. The director, in denying the petition, determined that the petitioner had not established that it had the ability to pay the beneficiary the proffered wage.

8 C.F.R. § 103.3(a)(1)(iii) states, in pertinent part:

(B) *Meaning of affected party;* For purposes of this section and sections 103.4 and 103.5 of this part, *affected party* (in addition to the Bureau) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

8 C.F.R. § 103.3(a)(2)(v) states:

Improperly filed appeal -- (A) Appeal filed by person or entity not entitled to file it -- (1) Rejection without refund of filing fee. 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 Bureau has accepted will not be refunded.

The appeal has not been filed by the petitioner, nor by any entity with legal standing in this proceeding, but rather by the counsel for the beneficiary. Therefore, the appeal has not been properly filed, and must be rejected.

ORDER: The appeal is rejected.