

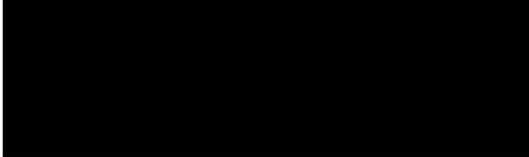
PUBLIC COPY

U.S. Department of Homeland Security

Citizenship and Immigration Services

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N.W.
Washington, DC 20536



File: 

Office: CALIFORNIA SERVICE CENTER

Date: **NOV 12 2003**

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)

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 Citizenship and Immigration Services (CIS) 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.

Cindy N. Gomez for
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Director, California Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner seeks classification 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 "Minister of Christian Education". The director determined that the petitioner had not established that his employer, Iglesia Latina Emmanuel, was a bona fide non-profit religious organization.

The Form I-360 petition indicates that the [REDACTED] Escondido, California, is the petitioner. The petition, however, is signed by Mr. [REDACTED]. Therefore, the [REDACTED] cannot be considered as having filed a petition on behalf of Mr. [REDACTED] and Mr. [REDACTED] shall be considered the petitioner.

The Form I-290B, Notice of Appeal, however, was signed by Pastor [REDACTED] of [REDACTED]. On the Form I-290B, Pastor [REDACTED] indicated that evidence was being submitted to establish that the organization is a nonprofit organization exempt from Income Tax.

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

Meaning of affected party. For purposes of this section and §§ 103.4 and 103.5 of this part, *affected party* (in addition to the Service) means the person or entity with legal standing in a proceeding.

As noted above, the record reflects that the I-360 Petition for Amerasian, Widow, or Special Immigrant, was signed by [REDACTED]. It is noted that Pastor [REDACTED] of [REDACTED] signed a letter dated March 22, 2002, extending a job offer to Mr. [REDACTED] and also signed as a sponsor of Mr. [REDACTED] on the Form I-864, Affidavit of Support Under Section 213A of the Act. The petitioner, Mr. [REDACTED] has not signed the Form I-290B, Notice of Appeal.

8 C.F.R. § 103.3(a)(2)(i) states, in pertinent part: "The affected party shall file an appeal on Form I-290B." Under the provisions of 8 C.F.R. § 103.3(a)(2)(v), "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."

In this case, the appeal has not been filed by the petitioner, or by any entity with legal standing in the proceeding. Therefore, the

appeal has not been properly filed, and must be rejected.

Upon review of the record, it is noted that the documentation submitted on appeal indicates that the [REDACTED] is recognized by the Internal Revenue Service (IRS) as a bona fide religious organization, and would appear to be sufficient to overcome the sole findings of the director.

However, although not discussed by the director, it is also noted that the record does not contain evidence regarding the ability of the employer to pay the proffered wage of \$26,000 per year. 8 C.F.R. § 204.5(g)(2) states in pertinent part that, "Evidence of this ability shall be either in the form of copies of annual reports, federal tax returns, or audited financial statements." The record contains a Bank of America Combined Account Statement for the [REDACTED] showing total balances of \$33,425.94 for the statement ending September 30, 2002. This evidence is not in accordance with the regulations above, and does not establish the ability of the [REDACTED] to pay the proffered wage from the date of filing.

In addition, it also is noted that although an official of the petitioner's potential employer's religious denomination has certified in a letter dated October 7, 2002, that the beneficiary is ordained and thereby is qualified to "perform any ministry in our church," the actual duties described by the employer in Cuba have not been shown to relate to a traditional religious function and to require the petitioner to have religious training. A majority of the duties detailed appear to relate to administrative and organizational duties of a secular nature that could be performed by someone in a non-religious position. Examples of duties that appear to be of a secular nature include: planning and management of the duties and employees of the church, including security guards, secretaries, drivers, printing operator, housekeeper, child[care] assistants, and temporary assemblers; attendance control and bi-weekly salary payment of employees; contracting and supervising repairs of the church and its equipment; negotiating and purchasing materials; monthly transportation plan; distribution of materials and supplies; running the print shops and collecting payment for finished jobs; preparing support personnel for cooking, housekeeping, teaching; and inspection of buildings and equipment. As the appeal must be rejected, these issues need not be further discussed.

ORDER: The appeal is rejected.