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U.S. Department of Homeland Security

Citizenship and Immigration Services

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

NOV 12 2003

File: [REDACTED] Office: NEBRASKA SERVICE CENTER Date:
(LIN 01 269 52630)

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:

[REDACTED]

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 M. Gomeny for
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be summarily dismissed.

The petitioner 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), in order to employ him as a minister.

The director denied the petition finding that the petitioning organization failed to establish that it is a qualifying religious organization exempt from, or eligible for exemption from, taxation as described in section 501(c)(3) of the Internal Revenue Code of 1986 as it relates to religious organizations.

On appeal, counsel argues that the Nebraska Service Center applied an incorrect legal standard in denying the petition. Counsel states that the petitioner will file a brief within "thirty days of receipt of the I-797," Notice of Action. It must be noted that the instructions for filing Form I-290B, Notice of Appeal to the Administrative Appeals Unit (AAU), indicate that a brief, if not submitted with the appeal, may be sent to the AAU within 30 days of the date the Form I-290B is signed by the person filing the appeal. In this case, counsel signed the Form I-290B on March 5, 2003. To date, no brief or additional evidence has been received.

As no additional information has been provided in support of the appeal, the record must be considered complete.

Regulations at 8 C.F.R. § 103.3 (a)(1)(v) state, in pertinent part:

Summary dismissal. An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

On appeal, counsel expresses disagreement with the decision of the director, but fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. As the petitioner has provided no additional evidence on appeal to overcome the decision of the director, the appeal is summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

It is also noted that the petitioner has not satisfactorily established that:

- (1) the beneficiary has been employed as a religious worker for the two years immediately preceding the

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- filing date of the petition;
- (2) the position qualifies as that of a religious worker;
 - (3) the beneficiary qualifies as a religious worker;
 - (4) the beneficiary has been of the same denomination as that of the petitioner for the preceding two years;
 - (5) the petitioner has made a valid job offer; or that
 - (6) the petitioner has the ability to pay the beneficiary the proffered wage of \$42,000 annually.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.