



U.S. Citizenship
and Immigration
Services

CA



File: [Redacted] Office: TEXAS SERVICE CENTER Date: 11/14/14

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

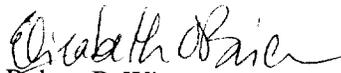
Petition: Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

IN BEHALF OF PETITIONER:

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.


Robert P. Wiemann, Director
Administrative Appeals Office

Identifying data deleted to
prevent disclosure of unwarranted
information and protect privacy

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as untimely filed.

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the complete appeal within 30 days after service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.5a(b).

The record indicates that the director issued the decision on July 3, 2003. The appeal was received on November 4, 2003, or 124 days after the decision was issued. Accordingly, the appeal was untimely filed.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, if an untimely appeal meets the requirements of a motion to reopen or a motion to reconsider, the appeal must be treated as a motion, and a decision must be made on the merits of the case. The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the service center director. *See* 8 C.F.R. § 103.5(a)(1)(ii). The director declined to treat the late appeal as a motion and forwarded the matter to the AAO.

Moreover, we note that the party filing the appeal in this case lacks standing to do so.

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 Service) 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 Service has accepted will not be refunded.

The appeal has not been filed by the petitioner, nor by any entity with legal standing in the proceeding, but rather by the beneficiary, who personally signed the I-290B Notice of Appeal, and identified herself, rather than the petitioner, as the "Person Filing Appeal" on that form. Inasmuch as the beneficiary is not an affected party, the appeal would be rejected as not properly filed even if it were not rejected as untimely filed.

Finally, we note that the party filing the appeal has failed to specifically identify any erroneous conclusion of law or statement of fact.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part, "[a]n 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."

The Form I-290B Notice of Appeal indicates the following reason for appeal: "I'm dependent of my parents."

As the statement submitted on appeal does not make any detailed assertion referring to specific errors of fact or conclusions of law made by the director, the appeal fails to overcome the findings of the director. In the absence of any allegation detailing specific errors of law or fact, we would find that the submission does not qualify as a substantive appeal were it not rejected for being untimely or for lack of standing.

ORDER: The appeal is rejected.