

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

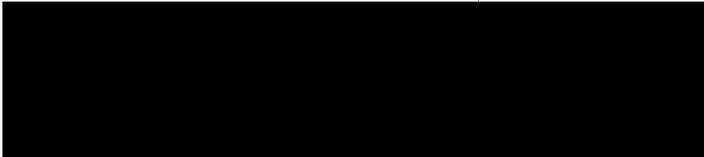
U.S. Department of Homeland Security
20 Mass Ave., N.W., Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

C1



FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: APR 26 2005
WAC 03 194 54252

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

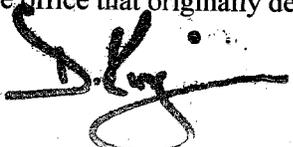
PETITION: Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

ON 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

cc: [REDACTED]

DISCUSSION: The employment-based 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 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 employ the beneficiary as a pastor.

The regulation at 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 Citizenship and Immigration Services [CIS]) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

Further, the regulation at 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 CIS has accepted will not be refunded.

The Form I-360 petition identifies Diamond Canyon Christian Church as the petitioner and contains the signature of [REDACTED] in part 9 of the form. The appeal, however, has not been filed by the petitioner, nor by any entity with legal standing in the proceeding, but rather by counsel for the beneficiary, who personally signed the I-290B Notice of Appeal, and identified himself, rather than the petitioner, as the "Person Filing Appeal." We note that while the beneficiary is represented by [REDACTED] the record does not contain a Form G-28 from Mr. [REDACTED] indicating that he also represents the petitioner. As cited in the regulation above, the beneficiary is not considered to be an affected party.

As the appeal was filed by counsel for the beneficiary and there is no evidence that counsel also represents the petitioner, the appeal has not been properly filed, and must be rejected, pursuant to the above regulations.

ORDER: The appeal is rejected.