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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

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[REDACTED]

FILE:

[REDACTED]

Office: CALIFORNIA SERVICE CENTER

Date: NOV 20 2007

WAC 07 079 52622

IN RE:

Petitioner:

[REDACTED]

Beneficiary:

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, Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected. The AAO will return the matter for further action by the director.

The beneficiary 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 monk/abbot at Dharmakirti College in Tucson, Arizona. The director determined that the petitioner had not established that the beneficiary had the requisite two years of membership in the organization's religious denomination and continuous work experience as a monk/abbot immediately preceding the filing date of the petition. In addition, the director determined that the employer had not established that it had made a qualifying job offer to the beneficiary or established its ability to compensate the beneficiary. Finally, the director found that the record does not establish that Dharmakirti College is a qualifying tax-exempt religious organization.

Part 1 of the Form I-360 petition identifies [REDACTED] as the petitioner. Review of the petition form, however, indicates that the alien beneficiary is the petitioner. An applicant or petitioner must sign his or her application or petition. 8 C.F.R. § 103.2(a)(2). In this instance, Part 9 of the Form I-360, "Signature," has been signed not by any official of the college, but by the alien beneficiary himself. Thus, the alien, and not the college, has taken responsibility for the content of the petition.

8 C.F.R. § 103.3(a)(1)(iii)(B) states that, for purposes of appeals, certifications, and reopening or reconsideration, "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. 8 C.F.R. § 103.3(a)(2)(v)(A)(1) states that 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.

Here, the appeal was filed not by the self-petitioning alien, nor by any attorney or accredited representative of the petitioner, but rather by [REDACTED], which has no standing to file an appeal on the petitioner's behalf. We must, therefore, reject the appeal as improperly filed.

We note, at the same time, that the director sent the notice of decision not to the alien self-petitioner, but to the college, presumably because the Form I-360 identified the college as the petitioner. Thus, the director has never issued any relevant notices to the petitioner himself.

8 C.F.R. § 103.5a(a)(1) defines "routine service" as mailing a copy by ordinary mail addressed to a person at his last known address. 8 C.F.R. § 103.5a(b) states that service by mail is complete upon mailing. Here, because the director addressed the notices to the college, rather than to the alien self-petitioner himself, the director has arguably never served the notice of denial. Thus, the self-petitioning alien has never had the opportunity to file a timely appeal. The director must reissue the denial notice in order to give the actual petitioner that opportunity.

We note that the Form I-360 indicated that the self-petitioning alien resided at [REDACTED], which is also the address of two college officials, one of whom is [REDACTED] Chair of the college's Board of Directors. [REDACTED] in a letter dated January 19, 2007, indicated that the self-petitioning

alien "will live with his wife, [REDACTED]" We have, therefore, addressed this notice to the alien at [REDACTED] [REDACTED] last known address of record.

Because there is, as yet, no valid appeal in the record, we examine, here, neither the grounds of the denial nor the merits of the appeal submitted by the college. We will duly consider those factors if and when the self-petitioning alien files a proper and timely appeal.

For the reasons stated above, the appeal has not been properly filed, and must be rejected. The director must serve a newly dated copy of the decision, properly addressed to the true petitioner.

ORDER: The appeal is rejected. The matter is returned to the director for the limited purpose of the reissuance of the decision.