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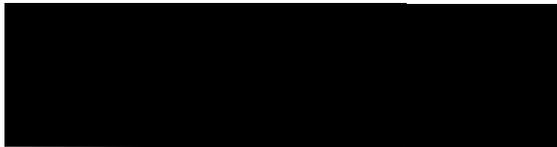
U.S. Department of Homeland Security  
20 Massachusetts Ave. N.W., Rm. 3000  
Washington, DC 20529-2090



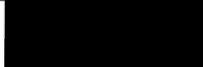
U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: DEC 10 2008

WAC 05 239 52335

IN RE:

Petitioner:



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:



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.

*JF Grissom*  
John F. Grissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, approved the employment-based immigrant visa petition. The director subsequently revoked the approval, reopened the proceeding, and denied the petition. The matter is now before the Administrative Appeals Office (AAO) on certification. The AAO will withdraw the director's decision and remand the petition to the California Service Center for further consideration and action pursuant to new regulations.<sup>1</sup>

As required under section 2(b)(1) of the Special Immigrant Nonminister Religious Worker Program Act, Pub. L. No. 110-391, 122 Stat. 4193 (2008), U.S. Citizenship and Immigration Services (USCIS) promulgated a rule setting forth new regulations for special immigrant religious worker petitions. Supplementary information published with the new rule specified: "All cases pending on the rule's effective date . . . will be adjudicated under the standards of this rule. If documentation is required under this rule that was not required before, the petition will not be denied. Instead the petitioner will be allowed a reasonable period of time to provide the required evidence or information." 73 Fed. Reg. 72276, 72285 (Nov. 26, 2008).

Because the service center has certified the initial decision to the AAO for review in accordance with 8 C.F.R. § 103.4 and the AAO has not issued a final decision, the matter is still considered to be pending. Section 557(b) of the Administrative Procedure Act (APA), 5 U.S.C. § 557(b). As the matter is still pending, it is therefore subject to the new rule.

**ORDER:** The matter is remanded to the director, California Service Center, for the issuance of a request for evidence (if necessary) and a new decision in accordance with the requirements of the new regulation published at 73 Fed. Reg. 72276 (Nov. 26, 2008).

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<sup>1</sup> It is noted that this matter has been the subject of litigation. *Hana Wesleyan Church et al. v. United States et al.*, No. CV 07-6852-GW(RCx)(2007). Those proceedings have been continued pending issuance of a final decision.