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U.S. Department of Homeland Security  
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U.S. Citizenship  
and Immigration  
Services

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61

FILE: WAC 07 003 54251 Office: CALIFORNIA SERVICE CENTER Date: OCT 29 2008

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:

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.

Part 1 of the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, identifies the Association of Independent Evangelical Lutheran Churches as the petitioner. Review of the petition, 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 church official, but by the alien beneficiary herself. Thus, the alien, and not the church, has taken responsibility for the content of the petition.

The regulation at 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. The regulation at 8 C.F.R. § 103.3(a)(2)(v) 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 party that signed the Form I-290B, Notice of Appeal or Motion, was not the petitioner, nor any attorney or accredited representative of the petitioner, but rather by [REDACTED] as attorney for the Association of Independent Evangelical Lutheran Churches, who has no standing to file an appeal on the petitioner's behalf. The only G-28, Notice of Entry of Appearance as Attorney or Representative, in the record of proceeding is on behalf of the Association of Independent Evangelical Lutheran Churches, and has been signed by Reverend I [REDACTED] for that organization. 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 Association of Independent Evangelical Lutheran Churches, presumably because the address portion of the Form I-360 identified that organization as the petitioner. Thus, the director has never issued any relevant notices to the petitioner herself.

The regulation at 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, and the regulation at 8 C.F.R. § 103.5a(b) states that service by mail is complete upon mailing. Here, because the director addressed the notice to the church, rather than to the alien self-petitioner, 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, if the alien petitioner chooses to appeal the director's decision, statements from church officials will be duly considered, albeit as witness statements rather than as the petitioner's own arguments. Because there is, as yet, no valid appeal in the record, we will not yet examine the merits of the appeal submitted by the church. We will duly consider those factors if and when the self-petitioning alien files a proper and timely appeal.

The appeal has not been filed by the petitioner, or by any entity with legal standing in the proceeding, but rather by an official of the organization that seeks to employ her. Therefore, 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 petitioner.

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