

PUBLIC COPY

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

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

ADMINISTRATIVE APPEALS OFFICE

425 Eye Street, N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

AUG 21 2003

File: WAC 00 249 55686 Office: California Service Center Date:

IN RE: Petitioner:
Beneficiary:

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:

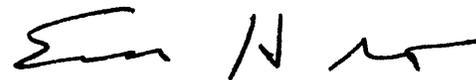
INSTRUCTIONS:

This is the decision 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Director, California Service Center. The Administrative Appeals Office (AAO) summarily dismissed an appeal from the decision. The matter is now before the AAO on a motion for reconsideration. The motion will be dismissed.

The petition was filed on August 18, 2000, and was denied by the center director on multiple grounds in a decision dated March 12, 2001. The petitioner, by and through counsel, submitted an appeal of the center director's decision to the AAO on March 22, 2001. The form on which the appeal was submitted was incorrect.¹ At the time of filing the appeal, counsel for the petitioner indicated that a separate written brief or statement would be submitted at a later date.

In a decision dated January 25, 2002, the AAO summarily dismissed the appeal pursuant to 8 C.F.R. 103.3(a)(3)(v), finding that the petitioner had failed to specifically identify any erroneous conclusion of law or a statement of fact for the appeal.

On motion, counsel for the petitioner submits a letter and documentation indicating that a separate statement in support of the initial appeal had been received by the Bureau on April 18, 2001. On motion, counsel requests that the AAO reconsider its summary dismissal based on that statement.

8 C.F.R. § 103.5(a)(2) states, in pertinent part, that:

A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision.

The statement untimely provided by counsel on appeal, and resubmitted on motion, merely notes the multiple grounds of the center director's denial of the petition and asserts that sufficient evidence had already been provided by the petitioner to support the petition.

Here, counsel essentially seeks a readjudication of the underlying petition. There is no provision for such an adjudication on a motion to reconsider. Counsel has failed to establish that this

¹ Counsel for the petitioner submitted Form EOIR-29, Notice of Appeal to the Board of Immigration Appeals of Decision of Director. The appropriate form for filing an appeal before the AAO is Form I-290B, Notice of Appeal.

action meets the applicable requirements of a motion to reconsider. Therefore, the motion will be dismissed.

The petitioner is free to file a new petition without prejudice.

ORDER: The motion is dismissed.