

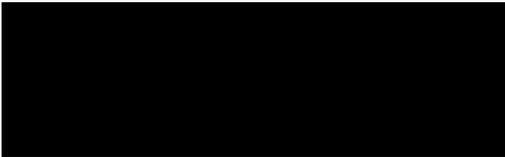


U.S. Citizenship
and Immigration
Services

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FILE: [Redacted] Office: TEXAS SERVICE CENTER Date: JUN 24 2004

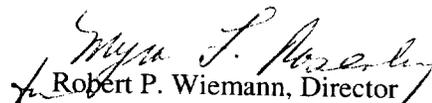
IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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, Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Director, Texas Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be rejected.

The petitioner 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). The director determined that the petitioner had not established that she had been continuously engaged in a qualifying religious vocation or occupation for two years immediately preceding the filing date of the petition. The director further determined that the petitioner had not established that the employing organization has the ability to pay the petitioner, and has extended a qualifying job offer to the petitioner.

The Form I-360, Petition for Amerasian, Widow or Special Immigrant, indicates that the "Church on Immokalee Road," Naples, Florida, is the petitioner. The petition, however, is signed by [REDACTED] and [REDACTED] signed as the preparer of the form. Therefore, the "Church on Immokalee Road" cannot be considered as having filed the petition on behalf of [REDACTED] shall be considered as the petitioner.¹

On appeal, the Form I-290B, Notice of Appeal, is signed by John R. Hinson, Pastor of the Church on Immokalee Road. The Form I-360 petition does not include the signature of Pastor Hinson. The petitioner, [REDACTED] furthermore, has not signed the Form I-290B, Notice of Appeal.

The regulation at 8 C.F.R. § 103.3(a)(1)(iii)(B) states:

Meaning of affected party. For purposes of this section and §§ 103.4 and 103.5 of this part, *affected party* (in addition to the Service)² means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition. An affected party may be represented by an attorney or representative in accordance with part 292 of this chapter.

The regulation at 8 C.F.R. § 292.4(a) states, in pertinent part: "[a]n appearance shall be filed on the appropriate form by the attorney or representative appearing in each case. . . . [a] notice of appearance entered in application or petition proceedings must be signed by the applicant or petitioner to authorize representation in order for the appearance to be recognized by the Service." There is no Form G-28, Notice of Entry of Appearance of Attorney or Representative, contained in the record of proceeding.

The regulation at 8 C.F.R. § 103.3(a)(2)(i) states, in pertinent part: "[t]he affected party shall file an appeal on Form I-290B." Under the provisions of 8 C.F.R. § 103.3(a)(2)(v), "[a]n 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 the Service has accepted will not be refunded."

In this case, the appeal has not been filed by the petitioner, or by any entity with legal standing in the proceeding. Therefore, the appeal has not been properly filed, and must be rejected.

Upon review of the record, it is noted that, beyond the decision of the director, the petitioner has not submitted sufficient evidence to establish that: (1) the employing organization qualifies as a bona fide non-profit religious organization; (2) the proposed position qualifies as a religious vocation or occupation; and, (3) the petitioner is qualified to engage in a religious vocation or occupation.

ORDER: The appeal is rejected.

¹ It is noted that the director did not recognize that the petition had been signed by [REDACTED]

² The Immigration and Naturalization Service ("INS" or "Service") is now known as Citizenship and Immigration Services ("CIS").