

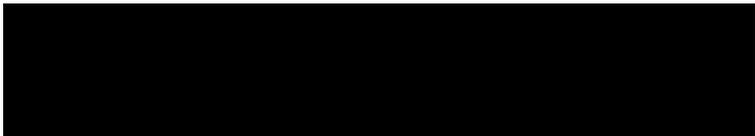
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U.S. Citizenship  
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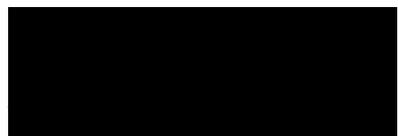
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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: APR 06 2005  
EAC 98 194 52951

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:



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 employment-based immigrant visa petition was denied by the Director, Vermont Service Center. On February 20, 2002, the Administrative Appeals Office (AAO) dismissed a subsequent motion to reconsider. The petitioner filed a motion to reopen, which the AAO dismissed on May 13, 2004. The matter is now before the AAO on a third motion. The motion will be dismissed.

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 Citizenship and Immigration Services (CIS) policy. 8 C.F.R. § 103.5(a)(3). A motion to reopen must state the new facts to be provided and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2).

On motion, counsel states that "[w]e believe the service erred in denying the I-360 motion . . . failing to see the bona fide labor on a full time basis . . . and by not accepting the evidence presented by the church that it has the financial ability to pay the wages as it has been doing since the beneficiary started working for the organization." Counsel indicated on the Form I-290B, Notice of Appeal to the Administrative Appeals Unit, that a brief and/or evidence would be submitted within 30 days. As of the date of this decision, however, more than nine months after the motion was filed, the AAO has received no additional documentation. Further, there is no provision in the regulations for a petitioner to supplement a previously filed motion. Any new materials submitted on motion must be submitted at the time the motion is filed. Therefore, the record will be considered complete as presently constituted.

As the petitioner failed to present new facts supported by documentary evidence in its motion, or to cite any precedent decisions in support of a motion to reconsider and does not argue that the previous decisions were based on an incorrect application of law or CIS policy, the petitioner's motion will be dismissed.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden. 8 C.F.R. § 103.5(a)(4) states that "[a] motion that does not meet applicable requirements shall be dismissed." Accordingly, the motion will be dismissed, the proceedings will not be reopened, and the previous decisions of the director and the AAO will not be disturbed.

**ORDER:** The motion is dismissed.