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U.S. Citizenship
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FILE: WAC 03 165 53318 Office: CALIFORNIA SERVICE CENTER Date: APR 28 2005

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

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 BENEFICIARY:



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 Director, California Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

On the Form I-290B Notice of Appeal, attorney [REDACTED] indicates that he represents the beneficiary. Mr. [REDACTED] does not claim, on the appeal form, to represent any other party.

8 C.F.R. § 103.3(a)(1)(iii) states that, for purposes of appeals, certifications, and reopening or reconsideration, *affected party* (in addition to Citizenship and Immigration Services) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition or the beneficiary's attorney. 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 the Service has accepted will not be refunded.

The appeal has not been filed by the petitioner, nor by any entity with legal standing in the proceeding, but rather by an attorney representing the beneficiary. Therefore, the appeal has not been properly filed, and must be rejected.

We note that Mr. [REDACTED] has submitted Form G-28, Notice of Entry of Appearance as Attorney or Representative. On this form, a check mark appears to indicate that Mr. [REDACTED] claims to represent the petitioner as well as the beneficiary. No official of the petitioning church, however, has signed the Form G-28 to acknowledge this representation. Only the beneficiary has signed the form, and thus Mr. Oak represents only the beneficiary. Absent a Form G-28 from the petitioner, Mr. [REDACTED] has no standing to file anything on the petitioner's behalf, and we must consider the appeal to have been improperly filed, pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(I)(i).

ORDER: The appeal is rejected.