



U.S. Citizenship
and Immigration
Services

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[Redacted]

FILE:

[Redacted]

Office: CALIFORNIA SERVICE CENTER

Date: AUG 10 2005

WAC 02 037 51066

IN RE:

Petitioner:
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 PETITIONER:

[Redacted]

Public Law 107-197
Investor of personal privacy

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.

Mari Johnson

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 summarily dismissed.

The petitioner is a church. It seeks to classify the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(4), to perform services as a preschool director. The director determined that the petitioner had not established that the position offered to the beneficiary qualifies as a religious occupation.

8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part, “[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.”

On the Form I-290B Notice of Appeal, filed on October 18, 2002, counsel indicated that a brief would be forthcoming within thirty days. To date, nearly three years later, careful review of the record reveals no subsequent submission; all other documentation in the record predates the issuance of the notice of decision. The AAO contacted counsel on August 2, 2005, to inquire as to whether counsel had submitted any brief. The AAO advised counsel: “Failure to respond to this notice within five business days may result in the summary dismissal of the appeal.” The allotted time has elapsed with no response from counsel.

The statement on the appeal form reads simply: “Petitioner requests additional time to present proof through independent objective evidence to establish that the duties of the beneficiary’s prospective occupation relate to a traditional religious function.” This is a general statement, which makes no specific allegation of error. The bare assertion that the petitioner intends to demonstrate the beneficiary’s eligibility is not, itself, a demonstration of eligibility. The assertion that further evidence is forthcoming is not sufficient basis for a substantive appeal, if that further evidence is not in the record.

Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the regulations mandate the summary dismissal of the appeal.

ORDER: The appeal is dismissed.