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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: NOV 10 2005
WAC 03 194 54252

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.

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S Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the employment-based immigrant visa petition. The Administrative Appeals Office (AAO) rejected a subsequent appeal as not filed by an affected party in the proceedings. The matter is now before the AAO on a motion to reopen. The motion will be dismissed.

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).

The only Form G-28, Notice of Entry of Appearance as Attorney or Representative, in the record on appeal was signed by the beneficiary, and counsel indicated on the Form I-290B, Notice of Appeal to the Administrative Appeals Office, that he represented the beneficiary. As the appeal was not filed by an affected party in the proceedings, the AAO rejected the appeal. *See* 8 C.F.R. § 103.3(a)(1)(iii).

On motion, counsel states that the “overwhelming bulk of the documentation and the attorney support letter all pointed to and still point to an application for adjustment of status as an [sic] religious worker for” the petitioning organization. On motion, counsel submits a Form G-28 properly signed by the petitioner. However, counsel does not assert, and submits no evidence, that the AAO’s rejection of the appeal was in error or inconsistent with regulation.

As the petitioner failed to present new facts supported by documentary evidence in its motion to reopen, 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.