

PUBLIC COPY



U.S. Citizenship
and Immigration
Services

**Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

CI

FILE:

[REDACTED]
SRC 05 219 52636

Office: TEXAS SERVICE CENTER

Date: APR 11 2006

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:

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

The petitioner seeks classification of the beneficiary 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), to perform services as a minister. The director denied the petition on November 8, 2005, finding that the petitioner failed to establish that during the two-year period immediately preceding the filing of the petition the beneficiary had been continuously employed on a full-time basis in essentially the same position as the proffered position.

The regulation at 8 C.F.R. § 103.3(a)(1)(iii) states, in pertinent part:

(B) Meaning of affected party. For purposes of this section and sections 103.4 and 103.5 of this part, *affected party* (in addition to Citizenship and Immigration Services [CIS]) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

Further, the regulation at 8 C.F.R. § 103.3(a)(2)(v) states:

Improperly filed appeal -- (A) Appeal filed by person or entity not entitled to file it -- (1) Rejection without refund of filing fee. 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 CIS 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 counsel for the beneficiary, who personally signed the I-290B Notice of Appeal, and identified himself, rather than the petitioner, as the "Person Filing Appeal." We note that while the beneficiary is represented by [REDACTED] the record does not contain a Form G-28 from [REDACTED] indicating his representation of the petitioner. As cited in the regulation above, the beneficiary is not considered to be an affected party. As the appeal was filed by counsel for the beneficiary and there is no evidence that counsel also represents the petitioner, the appeal has not been properly filed, and must be rejected, pursuant to the above regulations.

ORDER: The appeal is rejected.