



U.S. Citizenship
and Immigration
Services

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invasion of personal privacy

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[Redacted]

FILE:

[Redacted]

Office: VERMONT SERVICE CENTER

Date: SEP 18 2006

EAC 05 174 53128

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]

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

Σ Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont 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.

The alien beneficiary sought classification 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 deacon and Sunday school teacher at United Holiness Temple. The director determined that the petitioner had not established that the church had made a qualifying job offer to the beneficiary.

Part 1 of the Form I-360 petition identifies United Holiness Temple as the petitioner. Review of the petition form, however, indicates that the alien beneficiary is the petitioner. An applicant or petitioner must sign his or her application or petition. 8 C.F.R. § 103.2(a)(2). In this instance, Part 9 of the Form I-360, "Signature," has been signed not by any official of the church, but by the alien beneficiary himself. Thus, the alien, and not the church, has taken responsibility for the content of the petition. While a church official prepared the petition form, the alien himself is the only party we can justifiably consider to be the petitioner.

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 (CIS)) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition. 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 CIS has accepted will not be refunded.

Here, the appeal was filed not by the petitioner, but by [REDACTED] of United Holiness Temple, which has no standing to file an appeal on the petitioner's behalf. We must, therefore, reject the appeal as improperly filed.

We note that the director had issued the notice of denial not to the self-petitioning alien beneficiary, but to the church. Ordinarily, the AAO would return the record to the director with the instruction to serve the denial notice on the petitioner, in order to afford the petitioner an opportunity to file a timely appeal. Pursuant to correspondence from counsel, however, further action is moot.

On April 6, 2006, the petitioner, through counsel, requested that the appeal be withdrawn. Given the improper filing of the appeal, as discussed above, there is no proper appeal to withdraw. Nevertheless, the AAO acknowledges that the true petitioner (*i.e.*, the self-petitioning alien beneficiary) has formally notified CIS and the AAO that he has no desire to further pursue this proceeding. The AAO therefore considers this proceeding to be closed.

ORDER: The appeal is rejected. The AAO acknowledges the petitioner's instruction to withdraw the appeal.