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FILE:



Office: VERMONT SERVICE CENTER

Date: MAR 09 2007

EAC 04 265 52417

IN RE:

Petitioner:

Beneficiary:



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, 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 AAO will return the matter for further action by the director.

The beneficiary seeks 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 missionary at the Christian Church of Christ, Point Pleasant, West Virginia. The director determined that the petitioner had not established: (1) that the beneficiary had the requisite two years of continuous work experience as a missionary immediately preceding the filing date of the petition; (2) the existence of a valid job offer; (3) the intending employer's ability to compensate the beneficiary; or (4) the intending employer's status as a tax-exempt religious organization.

Part 1 of the Form I-360 petition identifies the Christian Church of Christ 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.

8 C.F.R. § 103.3(a)(1)(iii)(B) 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. 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 party that filed the appeal was not the petitioner, nor any attorney or accredited representative of the petitioner, but rather Christian Church of Christ, which has no standing to file an appeal on the petitioner's behalf. We must, therefore, reject the appeal as improperly filed.

We note, at the same time, that the director sent the notice of decision not to the alien self-petitioner, but to the church, presumably because the Form I-360 identified the church as the petitioner. Thus, the director has never issued any relevant notices to the petitioner himself.

8 C.F.R. § 103.5a(a)(1) defines "routine service" as mailing a copy by ordinary mail addressed to a person at his last known address. 8 C.F.R. § 103.5a(b) states that service by mail is complete upon mailing. Here, because the director addressed the notices to the attention of a minister at the church, rather than to the alien self-petitioner himself, the director has arguably never properly served the notice of denial. Thus, the self-petitioning alien has never had the opportunity to file a timely appeal. The director must reissue the denial notice in order to give the actual petitioner that opportunity. The director also has the option of reopening the proceeding in order to take into account newly submitted evidence accompanying the rejected appeal.

We note that, if the alien petitioner chooses to appeal the director's decision, statements from church officials will be duly considered, albeit as witness statements rather than as the petitioner's own arguments. Because there is, as yet, no valid appeal in the record, we examine, here, neither the basis of the denial nor the merits of the appeal.

submitted by the church. We will duly consider those factors if and when the self-petitioning alien files a proper and timely appeal.

The appeal has not been filed by the petitioner, or by any entity with legal standing in the proceeding, but rather by the Christian Church of Christ. Therefore, the appeal has not been properly filed, and must be rejected. The director must serve a newly dated copy of the decision (or a revised decision, taking new evidence into account), properly addressed to the alien self-petitioner.

ORDER: The appeal is rejected. The matter is returned to the director for the limited purpose of the reissuance of the decision.