**U.S. Department of Homeland Security**
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529

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

U.S. Citizenship and Immigration Services

**PUBLIC COPY**

[redacted]

FILE: [redacted] Office: TEXAS SERVICE CENTER Date: MAR 21 2007

SRC 05 165 51313

IN RE: Petitioner: [redacted]
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.

Marin Johnson

Robert P. Wiemann, Chief
Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center, denied the immigrant visa petition. The petitioner appealed the decision to the Administrative Appeals Office (AAO), which rejected the appeal. The petitioner has since filed a second appeal. The appeal will be rejected.

The record indicates that the director denied the petition on August 29, 2005, and advised that the petitioner could appeal the decision by filing Form I-290B, Notice of Appeal, "together with a $110.00 fee." The petitioner filed an appeal with that fee on September 29, 2005. In the meantime, however, the fee for an appeal increased from $110 to $385, effective September 28, 2005. Because the fee was incorrect at the time of filing, the AAO rejected the appeal as improperly filed on March 27, 2006, pursuant to 8 C.F.R. § 103.2(a)(7)(i).

On April 26, 2006, the petitioner filed a second Form I-290B, seeking to appeal the AAO's rejection notice of March 27, 2006. The regulations, however, contain no provision for a petitioner to appeal the rejection of an earlier appeal. Even if the AAO were to consider the new appeal as a motion, pursuant to 8 C.F.R. § 103.3(a)(2)(v)(B)(*2*), such a motion would lie under the jurisdiction of the official who made the last substantive decision in the proceeding, *i.e.*, the Director, Texas Service Center. *See* 8 C.F.R. § 103.5(a)(1)(ii). The AAO, therefore, can take no action on the matter at this time. We acknowledge that the director erred in failing to inform the petitioner of the imminent fee increase, but the director's error cannot and does not supersede the pertinent regulations.

As the AAO has no regulatory authority to accept the appeal, the appeal must be rejected.

**ORDER**: The appeal is rejected.