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FILE:

[Redacted]  
EAC 04 164 52327

Office: VERMONT SERVICE CENTER

Date: **SEP 06 2007**

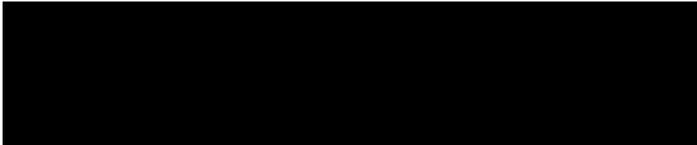
IN RE:

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:



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.

*for*   
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, denied the employment-based immigrant visa petition, and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on a motion to reopen. The motion will be dismissed.

The petitioner is a Pentecostal church of the Assemblies of God denomination. It seeks to classify 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 an assistant minister. The director determined that the petitioner had not established that the beneficiary had the requisite qualifications or two years of continuous work experience as a minister immediately preceding the filing date of the petition. The AAO affirmed the director's decision in part and dismissed the appeal.

Any motion to reopen a proceeding before the Service filed by an applicant or petitioner, must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires, may be excused in the discretion of Citizenship and Immigration Services where it is demonstrated that the delay was reasonable and was beyond the control of the applicant or petitioner. 8 C.F.R. § 103.5(a)(1)(i).

Pursuant to 8 C.F.R. § 103.5(a)(1)(iii)(B), a motion is not properly filed unless it includes the appropriate fee.

The AAO dismissed the appeal on November 20, 2006. The limited period for filing a motion began on that date. On December 20, 2006, the petitioner submitted a motion that did not include the proper fee. The director issued a rejection notice on December 28, 2006, stating that the motion "cannot be accepted because the proper fee . . . is not attached." Pursuant to 8 C.F.R. § 103.2(a)(7)(i), an improper filing (*e.g.*, one lacking the proper fee) is not assigned a filing date.

According to receipt stamps on the motion, the petitioner did not refile the motion with the required fee until May 16, 2007, four and a half months after the director issued the rejection notice. (The cover letter is dated May 11, and the envelope is postmarked May 14, so the May 16 receipt stamp is not the result of delay or mishandling at the Service Center.) The May 2007 refiling contains no evidence that this substantial delay was reasonable or beyond the control of the petitioner.

A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4). Because the motion was not timely filed with the proper fee, and the petitioner has not shown that the delay was reasonable or beyond the control of the petitioner, the AAO must dismiss the motion.

**ORDER:** The motion is dismissed.