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U.S. Citizenship  
and Immigration  
Services

Cj

[REDACTED]

FILE:

[REDACTED]  
SRC 01 170 53754

Office: TEXAS SERVICE CENTER

Date: AUG 05 2008

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, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center, initially approved the employment-based immigrant visa petition, but subsequently revoked that approval on notice pursuant to 8 C.F.R. § 205.2. The Administrative Appeals Office (AAO) dismissed the petitioner's appeal of the revocation. The matter is now before the AAO on a motion to reopen. The motion will be dismissed.

The petitioner is identified as a church. 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 a pastor. The director determined that the petitioner had not established its ability to pay the beneficiary's proffered wage, or that the beneficiary had the requisite two years of continuous work experience as a pastor immediately preceding the filing date of the petition. The AAO dismissed the appeal, affirming the grounds for revocation and finding that the petition contained false statements by the beneficiary and by others.

8 C.F.R. § 103.5(a)(1)(i) permits consideration of a motion only when that motion is filed by an affected party. 8 C.F.R. § 103.3(a)(1)(iii)(B) defines *affected party* as the person or entity with legal standing in a proceeding. A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

Any motion to reopen a proceeding before Citizenship and Immigration Services (CIS) 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 CIS 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). In this instance, the AAO dismissed the petitioner's appeal on August 5, 2005. The motion to reopen was filed almost two years later, on July 17, 2007. The motion does not include any explanation or evidence to show that this major delay was reasonable and was beyond the control of the petitioner. The untimely filing of the motion to reopen, with no showing that the delay was reasonable and was beyond the control of the petitioner, by itself warrants dismissal of the motion pursuant to 8 C.F.R. § 103.5(a)(4).

In addition, the regulation at 8 C.F.R. § 103.5(a)(1)(iii) requires a motion to be filed on Form I-290B. The motion was not filed with this required form. This, by itself, is sufficient grounds for dismissal under 8 C.F.R. § 103.5(a)(4) because the motion does not meet applicable requirements. Also, the present motion was filed not by the petitioner,<sup>1</sup> nor by the petitioner's attorney of record, but by an attorney who did not submit Form G-28, Notice of Entry of Appearance as Attorney or Representative. Without a duly executed Form G-28, the attorney has no standing to file a motion on the petitioner's behalf. On February 26, 2008, the AAO instructed the attorney to submit a duly executed Form G-28 within ten calendar days. The record contains no response. Because the attorney has not established standing to file the motion, the AAO must dismiss the motion pursuant to 8 C.F.R. § 103.5(a)(4).

The motion will be dismissed for the above stated reasons, with each considered as an independent and alternative basis for dismissal.

**ORDER:** The motion is dismissed.

<sup>1</sup> [REDACTED] signed the Form I-360 petition. [REDACTED] signed the Form I-290B Notice of Appeal.