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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. A3042
Washington, DC 20529

U.S. Citizenship and Immigration Services

B6

[redacted]

FILE: [redacted] Office: TEXAS SERVICE CENTER Date: DEC 0 3 2004
SRC 03 022 52069

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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The petitioner is 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 director of the Bible Correspondence School, hospital chaplain, and "Bible and Counselor Worker assisting the local church pastor" for the Wildwood Lifestyle Center & Hospital. The director determined that the hospital is not a qualifying tax-exempt religious organization.

8 C.F.R. § 103.3(a)(1)(iii) states, in pertinent part:

> (B) *Meaning of affected party.* For purposes of this section and sections 103.4 and 103.5 of this part, *affected party* (in addition to the Service) 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:

> *Improperly filed appeal -- (A) Appeal filed by person or entity not entitled to file it -- (1) Rejection without refund of filing fee.* 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 the Service has accepted will not be refunded.

There are two signature blocks at the end of the Form I-360 petition, accompanied by an advisory to "[r]ead the information" in those sections. The attestations to these two blocks read as follows:

> Part 9. Signature.
> I certify, or, if outside the United States, I swear or affirm, under penalty of perjury under the laws of the United States of America, that this petition and the evidence submitted with it is all true and correct. . . .
>
> Part 10. Signature of person preparing form if other than above.
> I declare that I prepared this application at the request of the above person and it is based on all information of which I have knowledge.

In this instance, the alien beneficiary himself signed part 9 of the Form I-360 petition, thereby taking legal responsibility for the petition. By this act, the beneficiary effectively filed the petition on his own behalf and is, therefore, the petitioner. Part 10 of the Form I-360 indicates that Fernando Ferreira of Wildwood Lifestyle Center & Hospital prepared the petition form. His signature on Part 10 does not make Mr. Ferreira the petitioner; unlike part 9, part 10 contains no certification under penalty of perjury. Throughout this proceeding, hospital officials have been the chief source of information and documentary submissions, but the hospital is not the petitioner, and neither are any of its officials. Pursuant to 8 C.F.R. § 103.2(a)(2), a petition must be signed under penalty of perjury. Because only the alien beneficiary signed such an attestation, only the alien beneficiary can be considered to be the petitioner.

We note that [redacted] represents Wildwood Lifestyle Center & Hospital. Because the hospital is not an affected party, this legal representation is without consequence to this proceeding. The petitioner remains unrepresented by counsel. We also note that the director incorrectly referred to the hospital as the petitioner,

because the cover page for the Form I-360 petition so identified the hospital; but this erroneous designation does not supersede or nullify the plainly-worded regulatory requirements cited above.

The Form I-290B Notice of Appeal does not bear the petitioner's signature. Instead, Fernando Ferreira signed the appeal form. The appeal submission contains nothing directly from the petitioner himself. Therefore, because Mr. Ferreira is not an affected party, the regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(*1*) indicates that the appeal must be rejected as improperly filed. Because we are required to reject this appeal, further discussion of the merits of the petition would serve no useful purpose at this time.

ORDER: The appeal is rejected.