U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

U.S. Citizenship and Immigration Services

[redacted]

File: [redacted] Office: NEBRASKA SERVICE CENTER Date: AUG 25 2004

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)

IN 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

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

PUBLIC COPY

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

The petitioner is 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, 8 U.S.C. § 1153(b)(4). The director denied the petition on July 29, 2003.

8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part, "[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal."

The letter submitted by the petitioner in support of the appeal filed on August 25, 2003, states the following as the petitioner's reason for appeal:

> We submitted I-360 form and its supporting document for R-1 nonimmigrant worker . . . [b]y a mistake of the form preparer, I-360 form is selected instead of I-129, but our letters . . . clearly indicated the petition for Nonimmigrant Religious Worker. The indication of petition . . . existed on the top of the letter, nevertheless they were not considered while the initial application of petition and additional evidences provided thereafter were examined and reviewed.
>
> The base [sic] of this appeal is our petition was not fairly and properly examined and reviewed due to application of improper requirements of I-360 instead of I-129. We are requesting our petition will be examined and reviewed by requirement of I-129.

On appeal, the petitioner claims its original filing of the I-360 petition was in error. The petitioner claims it actually intended to file the Form I-129 on behalf of the petitioner, and as such that the director's review of the petition in accordance with the requirements of the Form I-360 rather than the Form I-129 was in error.

We find no error in the director's adjudication of the Form I-360. The Service Center has no choice when adjudicating a petition but to apply the regulatory requirements related to the particular form. It cannot be left to the Service Center to decipher that a petitioner may have meant to file one form rather than another. If, as stated by the petitioner on appeal, the petitioner meant to file a Form I-129 rather than the Form I-360, and have the petition adjudicated in accordance with the regulatory requirements associated with the Form I-129, the petitioner's sole remedy is to file the correct form.

Accordingly, as the petitioner has failed to state any erroneous conclusion of law or statement of fact made by the director, the regulations mandate the summary dismissal of the appeal.

ORDER: The appeal is dismissed.