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: TEXAS SERVICE CENTER Date: JUL 7 2004

IN RE: Petitioner: [redacted]

Beneficiary:

PETITION: 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 immigrant visa petition was denied by the Director of the Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner states that it is a church. It seeks classification of 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), in order to employ him as a Sunday School Superintendent and Director of African-American Outreach.

The petition was initially approved on December 8, 1997. Based on evidence provided in support of the beneficiary's Form I-485, Application to Register Permanent Residence or Adjust Status, the director subsequently determined that the petition had been approved in error. On August 29, 2002, the director issued a notice informing the petitioner of her intention to revoke approval of the petition based on a determination that the petitioner had not established that the beneficiary had been a member of the petitioner's particular religious denomination for the two years immediately preceding the filing date of the petition. The director further determined that the petitioner had not established that the beneficiary had been engaged continuously in a qualifying religious vocation or occupation for two full years immediately preceding the filing date of the petition. The director also determined that the petitioner had not established that the beneficiary was qualified for a religious worker position within the religious organization or that the position qualified as that of a religious vocation or occupation. Finally, the director determined that the petitioner had not established that it has had the ability to pay the beneficiary the proffered wage. The petitioner was granted thirty days to provide additional evidence to overcome the stated grounds for revocation of approval of the petition.

On December 16, 2002, the director revoked the approval of the petition, stating that the petitioner had failed to provide a brief or any additional evidence to overcome the grounds for revocation. The director informed the petitioner that an appeal must be filed with 18 days of the date of issuance of the decision.

The appeal was not received by Citizenship and Immigration Services (CIS) until March 5, 2003, eighty (80) days after the date of issuance of the Notice of Revocation. On appeal, the petitioner stated that a letter and additional evidence had been mailed to the Texas Service Center in response to the Notice of Intent to Revoke. The petitioner provided mailing receipts, along with copies of the evidence that was purportedly mailed, showing that it had mailed material to the Texas Service Center on October 21, 2002, almost two months after the date of issuance of the Notice of Intent to Revoke. The petitioner failed to respond to the Notice of Intent to Revoke within the allotted thirty-day period. The petitioner states on appeal that it responded in time; however, the evidence of record does not support this assertion. The petitioner offered no explanation as to why the response was submitted after the allotted 30-day period, and no explanation as to why the appeal was filed after the 15-day period with three additional days for mailing.

Pursuant to 8 C.F.R. § 205.2(d), an appeal to the revocation of approval of a petition must be filed within 15 days of service of the notice of revocation. Pursuant to 8 C.F.R. § 103.3(a)(2)(v)(B)(1), an appeal that is not filed within the time allotted must be rejected as improperly filed and the filing fee will not be refunded. In

this case, the appeal was filed 80 days after the date of issuance of the notice of revocation. Therefore, the appeal was untimely filed and must be rejected.

ORDER: The appeal is rejected.