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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

C1

[redacted]

FILE: EAC 03 040 55028 Office: VERMONT SERVICE CENTER Date: FEB 14 2005

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Nonimmigrant Petition for Religious Worker Pursuant to Section 101(a)(15)(R)(1) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(R)(1)

ON BEHALF OF PETITIONER:

[redacted]

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.

Mari Johnson

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the nonimmigrant visa petition. The director reopened the petition on the petitioner's motion, and again denied the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

When the director originally denied the petition on September 10, 2003, the director correctly indicated that the regulations make no provision to allow the petitioner to appeal the denial of an R-1 nonimmigrant visa petition.

In reaffirming the denial, subsequent to the petitioner's motion, the director provided instructions on how to appeal the decision to the AAO. This language was included in error, because, as the director had earlier noted, the regulations do not provide for appeals of R-1 denials, either initially or following a motion.

A field office decision made as a result of a motion may be appealed to the AAO only if the original decision was appealable to the AAO. 8 C.F.R. § 103.5(a)(6). Because the original decision in this proceeding was not appealable to the AAO, the AAO cannot accept the appeal filed subsequent to the petitioner's motion. The director's erroneous inclusion of appeal instructions in the second denial notice does not supersede the AAO's regulatory lack of appellate authority regarding R-1 nonimmigrant religious worker petitions.

Because there is no provision to allow the petitioner to appeal the director's decision, the appeal cannot be accepted, and therefore must be rejected.

ORDER: The appeal is rejected.