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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PHOTOCOPY



CL

FILE: LIN 03 197 50545 Office: NEBRASKA SERVICE CENTER Date: 11/11/11

IN RE: Petitioner: [Redacted]
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.

Maui Johnson

Σ Robert P. Wiemann, Director
Administrative Appeals Office

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

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 (the Act), 8 U.S.C. § 1153(b)(4), to perform services as a translator. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience as a translator immediately preceding the filing date of the petition. In addition, the director determined that the petitioner had not established that the beneficiary's position qualifies as a religious occupation.

██████████ pastor of the petitioning church, signed the Form I-360 petition. When the director denied the petition, the denial notice was inadvertently addressed to ██████████ in care of the church.

The envelope in which the appeal was submitted is in the record. The return address on the envelope is the church's address, ██████████. The church is in ██████████ but the envelope was mailed from a post office in ██████████ 3 miles away.

The Form I-290B notice of appeal, under "Person Filing Appeal," bears an illegible signature. The individual checked a box next to the phrase "I am an attorney or representative." The individual claimed to represent ██████████ Pastor," and requested 60 days to submit additional evidence. Subsequently, the petitioner has submitted an unsigned letter, attributed to ██████████ identified as pastor of the petitioning church.

On March 16, 2005, the AAO contacted ██████████ in an effort to resolve the discrepancies regarding Dr. ██████████ name. ██████████ wrote back: "I did not write the letter and my middle initial is ██████████ (as in ██████████ not ██████████). In researching the situation, I found that the secretary of a lawyer who is/was helping [the beneficiary] with her immigration appeals had written the letter." ██████████ indicated that the letter was "only incidentally authorized – that is, the substance of the letter being true." We conclude, from this letter, that ██████████ did not authorize, or even know about, the letter until after it had been submitted to the AAO.

We do not conclude that the person who prepared the appeal documents, including the Form I-290B, the envelope in which it was mailed, and the unsigned new letter, was an official of the petitioning church. Such an official would know ██████████ real name. Rather, the appeal documents appear to have been prepared by an individual who knew ██████████ name only from the misspelled denial notice.

The record contains no Form G-28 Notice of Entry of Appearance as Attorney or Representative to identify any attorney or representative acting on the petitioner's behalf. ██████████ himself, in his latest communication, does not state that the church has retained an attorney or representative in this matter. Rather, he refers to an unidentified "lawyer who is/was helping [the beneficiary] with her immigration appeals," indicating that the attorney was acting on behalf of the beneficiary, not the petitioner. We cannot conclude that the unidentified secretary of an unidentified lawyer who did not know ██████████ actual name was acting on the petitioner's behalf, or authorized to do so, at the time the appeal was filed.

8 C.F.R. § 103.3(a)(1)(iii) states that, for purposes of appeals, certifications, and reopening or reconsideration, *affected party* (in addition to the Citizenship and Immigration Services) 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 that 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.

8 C.F.R. § 103.3(a)(2)(v)(A)(2)(i) states that, if an appeal is filed by an attorney or representative without a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) entitling that person to file the appeal, the appeal is considered improperly filed. In such a case, any filing fee that CIS has accepted will not be refunded regardless of the action taken.

We note that 8 C.F.R. §§ 103.3(a)(2)(v)(A)(2)(ii) and (iii) state that, if an appeal is otherwise properly filed, a CIS officer shall ask the attorney or representative to submit Form G-28, and that, upon submission of that form, the appeal will be considered to have been properly filed. In this instance, however, the purported attorney's signature is not legible, and the record does not contain the attorney's written or printed name, nor any address, telephone number, or fax number for the unidentified attorney. Therefore, the purported attorney has foreclosed every means of direct contact. Furthermore, as noted above, [REDACTED] does not indicate that the church has hired any attorney in this proceeding; rather, [REDACTED] refers to actions by *the beneficiary's* attorney, undertaken in [REDACTED]'s name but without his knowledge or consent. The preparation of what is, essentially, a forged letter does not cause the unidentified attorney to become counsel of record, authorized to file an appeal on the petitioner's behalf. The fact that [REDACTED] considers the letter to have been "incidentally authorized" after the fact does not establish that such authorization existed at the time the unidentified writer, claiming to be [REDACTED] wrote and submitted the letter. The petitioner's lack of objection to the present appeal does not establish that the petitioner, the only entity authorized to file the appeal, did in fact file it.

The appeal has not been filed by the petitioner, or by any entity with legal standing in the proceeding, but rather by an unidentified party claiming to represent the nonexistent [REDACTED]. Therefore, the appeal has not been properly filed, and must be rejected.

ORDER: The appeal is rejected.