

**U.S. Department of Homeland Security**  
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**U.S. Citizenship  
and Immigration  
Services**

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FILE:

EAC 04 233 53282

Office: VERMONT SERVICE CENTER

Date: DEC 28 2006

IN RE:

Petitioner:

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.

*Mark Johnson*

S/ Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will reject the appeal and return the matter for further action by the director .

The alien beneficiary 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 a mathematics teacher at [REDACTED]. The director determined that the position of a mathematics teacher is not a qualifying religious occupation.

Part 1 of the Form I-360 petition identifies [REDACTED] as the petitioner. Review of the petition form, however, indicates that the alien beneficiary is the petitioner. An applicant or petitioner must sign his or her application or petition. 8 C.F.R. § 103.2(a)(2). In this instance, Part 9 of the Form I-360, “Signature,” has been signed not by any official of the church, but by the alien beneficiary himself. Thus, the alien, and not the church, has taken responsibility for the content of the petition.

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 Citizenship and Immigration Services (CIS)) means the person or entity with legal standing in a proceeding. 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 CIS has accepted will not be refunded.

Here, the party that filed the appeal was filed not the petitioner, nor by any attorney or accredited representative of the petitioner, but rather [REDACTED] of [REDACTED] who has no standing to file an appeal on the petitioner’s behalf. We must, therefore, reject the appeal as improperly filed. We note, at the same time, that the director sent the notice of decision not to the alien self-petitioner, but to the church, presumably because the Form I-360 identified the church as the petitioner.

8 C.F.R. § 103.5a(a)(1) defines “routine service” as mailing a copy by ordinary mail addressed to a person at his last known address. 8 C.F.R. § 103.5a(b) states that service by mail is complete upon mailing. Here, because the director addressed the notices to the church, rather than to the alien self-petitioner, the director has arguably never served the notice of denial. Thus, the self-petitioning alien has never had the opportunity to file a timely appeal. The director must reissue the denial notice in order to give the actual petitioner that opportunity. We note that, if the alien petitioner chooses to appeal the director’s decision, statements from church officials will be duly considered, albeit as witness statements rather than as the petitioner’s own arguments. Because there is, as yet, no valid appeal in the record, we examine, here, neither the basis of the denial nor the merits of the appeal submitted by the church. We will duly consider those factors if and when the self-petitioning alien files a proper appeal.  
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The appeal has not been filed by the petitioner, or by any entity with legal standing in the proceeding, but rather by the petitioner’s intending employer. Therefore, the appeal has not been properly filed, and must be rejected. The director must serve a newly dated copy of the decision, properly addressed to the petitioner.

**ORDER:** The appeal is rejected. The matter is returned to the director for the limited purpose of the reissuance of the decision.