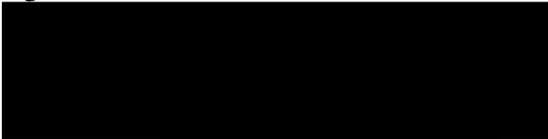




U.S. Citizenship
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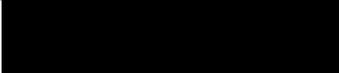
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FILE:



Office: CALIFORNIA SERVICE CENTER

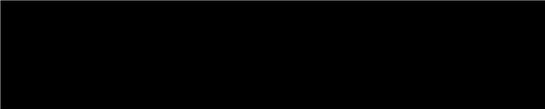
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IN RE:

Petitioner:



Beneficiary:

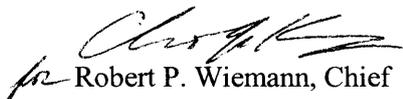
PETITION: Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

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.


for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the employment-based immigrant visa petition. The director treated a subsequent appeal as a motion and approved the petition. Upon further review, the director determined that the petition had been approved in error. The director properly served the petitioner with a notice of intent to revoke, and subsequently revoked the approval of the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected. The AAO will 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), purportedly to perform services as a youth minister/Christian educator at the Romanian Baptist Church, Phoenix, Arizona. The director determined that the petitioner had not established that the beneficiary had been and would continue to work in the position claimed. The director found that the petitioner had not shown that the beneficiary's actual duties constitute a qualifying religious occupation, or that the church is able to pay the beneficiary's proffered wage.

Part 1 of the Form I-360 petition identifies the church 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 herself. 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)(B) 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. It does not include the beneficiary of a visa petition. 8 C.F.R. § 103.3(a)(2)(v)(A)(I) 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 appeal was filed not by the petitioner, nor by any attorney or accredited representative of the petitioner, but rather by the church, which 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. Thus, the director has never issued any relevant notices to the petitioner herself. The director did so even though the director was demonstrably aware that the beneficiary had signed the Form I-360 – the director stated as much on page 3 of the revocation notice. Also, the AAO takes administrative notice of an internal memorandum in the petitioner's file, dated August 8, 2006, in which a CIS officer repeatedly referred to the beneficiary as "the petitioner." Despite this information, the director addressed the subsequent revocation notice to the church.

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 herself, the director has arguably never served the notice of revocation. Thus, the self-petitioning alien has never had the

opportunity to file a timely appeal. The director must reissue the revocation notice in order to give the actual petitioner that opportunity.

We note that the self-petitioning alien beneficiary has made conflicting statements regarding her residential address. On the Form I-360, which she signed on July 13, 2004, she stated that she lived in an apartment on [REDACTED] in Phoenix. Subsequently, when she filed Form I-485 in order to adjust status, she gave the church's address on [REDACTED] in Phoenix. Accompanying the Form I-485 was Form G-325A, Biographic Information, signed by the petitioner and dated May 27, 2006. On Form G-325A, the petitioner claimed that she lived at [REDACTED] from June 2001 to June 2004, and at the church from June 2004 to the "Present Time," *i.e.*, May 2006. The petitioner's continued use of the [REDACTED] address on the Form I-360 in July 2004 casts doubt on her later claim to have left [REDACTED] in June 2004.

Furthermore, the adjustment application also included a Form I-693 medical report, dated May 24, 2006. This report, signed by the petitioner herself, shows the [REDACTED] address. The petitioner's use of the [REDACTED] address on a CIS form as late as May 2006 contradicts the petitioner's claim, on the Form G-325A executed the same week, that she had left Tuckey Lane in June 2004 to take up residence at the church itself. Forced to choose between these conflicting claims, the AAO believes that the beneficiary continues to reside at the [REDACTED] address. To choose otherwise would require the highly unlikely assumption that the beneficiary left [REDACTED] in June 2004 but has inadvertently and repeatedly continued to use that address for nearly two years thereafter. We will not speculate as to why the petitioner claims that she left [REDACTED] in June 2004. It will suffice to observe that the petitioner's own continued use of that address is not consistent with that claim.

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 and timely appeal.

The appeal has not been filed by the petitioner, or by any entity with legal standing in the proceeding, but rather by the church. 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.