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DEC 04 2007

FILE: EAC 06 138 51962 Office: VERMONT SERVICE CENTER Date:

IN RE: Petitioner:
Beneficiary



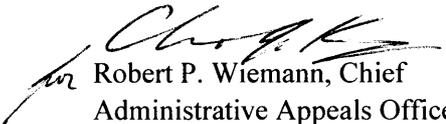
PETITION: Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

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, Vermont Service Center, denied the employment-based immigrant visa 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 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 minister of evangelism. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience as a minister of evangelism immediately preceding the filing date of the petition.

Part 1 of the Form I-360 petition identifies the Church of the Nazarene as the petitioner. The address shown matches that of the church's Metro New York District. The form also, however, states an address in care of [REDACTED] in Bridgeport, Connecticut. 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 by [REDACTED] of the Metro New York District, not by [REDACTED] or any other official of the church in Bridgeport. There is no evidence that [REDACTED] is, himself, a Metro New York District official, rather than a minister at a subordinate local church. Thus, the Metro New York District, and not any subsidiary entity, 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)(1) 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 [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 petitioner in New York, but to [REDACTED] in Connecticut, presumably because the Form I-360 indicated that mail to the petitioner should be sent in care of [REDACTED]. Thus, the director has never issued any relevant notices to the petitioner itself.

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 attention of [REDACTED] rather than to the petitioning district, the director has arguably never properly 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 [REDACTED] 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 [REDACTED]. We will duly consider those factors if and when the petitioning district 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 a subordinate 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.