U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

[redacted]

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DATE: NOV 15 2012 Office: CALIFORNIA SERVICE CENTER [redacted]

IN RE: Petitioner: [redacted]
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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, California 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 or, in the alternative, summarily dismiss the appeal.

The petitioner 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 religious studies teacher. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous, lawful, qualifying work experience. The director additionally found that the petitioner failed to establish its ability to compensate the beneficiary and that the beneficiary will be working in a qualifying full time position.

The U.S. Citizenship and Immigration Services (USCIS) regulation at 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 USCIS) means the person or entity with legal standing in a proceeding. The USCIS regulation at 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, USCIS will not refund any filing fee it has accepted.

Here, the party that filed the appeal was [redacted] an attorney who claims to represent the petitioner. The regulation at 8 C.F.R. § 292.4(a) as well as the instructions to the Form I-290B require that a "new [Form G-28, Notice of Appearance as Attorney or Representative] must be filed with an appeal filed with the Administrative Appeals Office." This regulation applies to all appeals filed on or after March 4, 2010. *See* 75 Fed. Reg. 5225 (Feb. 2, 2010). However, the record does not contain a new Form G-28, Notice of Appearance as Attorney or Representative authorizing [redacted] to represent the petitioner on appeal.

On September 12, 2012, the AAO sent a letter to [redacted] at the address he provided on the Form I-290B Notice of Appeal. In the letter, the AAO instructed him to submit a valid Form G-28, signed by an official of the petitioning entity, authorizing him to represent the petitioner. The letter additionally requested evidence that he is qualified, or was qualified on April 18, 2012, to represent others in USCIS proceedings pursuant to 8 C.F.R §§ 292.4(a) and 103.2(a). The letter provided that the documentation should be submitted within 15 days. To date, no documentation has been received and the record is considered complete as it now stands.

The party that filed the appeal is not an affected party with legal standing in the proceeding. Therefore, the AAO must reject the appeal as improperly filed.

Even if properly filed, the AAO would summarily dismiss the appeal. On the Form I-290B, Notice of Appeal, filed on April 18, 2012, in Part 3 of the form, "Basis for the Appeal or Motion," the petitioner stated the following:

> The District Director misconstrued the petitioner's ability to pay the required salary. The District Director also erroneously concluded that the beneficiary had violated her R-1 status by illegally working for a second employer. Finally, the District Director erroneously concluded that the beneficiary had not worked on a full-time basis for the two-year period immediately preceding the filing of the petition.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) provides that "[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal." Counsel makes only general references to the director's error without any substantive argument pointing to specific facts or analyses in contention. Further, while counsel indicated that a brief and/or additional evidence would be forthcoming within thirty days, to date, careful review of the record reveals no subsequent submission. Therefore, the appeal form itself appears to constitute the entire appeal.

The petitioner has not specifically addressed the reasons stated for denial and has not provided any additional evidence pertaining to the classification sought. The appeal must therefore be summarily dismissed.

ORDER: The appeal is rejected or in the alternative summarily dismissed.