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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
Washington, DC 20529-2090

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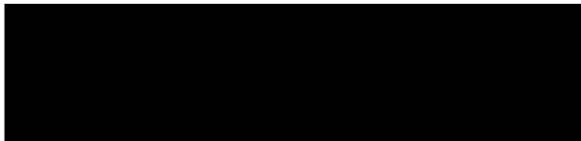
FILE: WAC 08 151 50719 Office: CALIFORNIA SERVICE CENTER Date: JUL 02 2009

IN RE: Petitioner:
Beneficiary:



PETITION: Nonimmigrant Petition for Religious Worker Pursuant to Section 101(a)(15)(R)(1) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(R)(1)

ON BEHALF OF PETITIONER:



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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

When the director denied the petition on November 25, 2008, the director correctly indicated that the regulations in effect at that time contained no provision to allow the petitioner to appeal the denial of an R-1 nonimmigrant visa petition. While a new regulation establishing such appeal rights went into effect on November 26, 2008, that regulation applied only to newly filed petitions and to “cases pending on the rule’s effective date.” 73 Fed. Reg. 72276, 72285 (Nov. 26, 2008). Because the petition was denied without appeal rights on November 25, 2008, the petition was not “pending” when the new rule took effect on November 26, 2008.

Because the petition was denied at a time when there existed no provision to allow such an appeal, the appeal cannot be accepted, and therefore must be rejected.

ORDER: The appeal is rejected.