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



U.S. Citizenship
and Immigration
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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **NOV 09 2010**

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

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:

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.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion. The fee for a Form I-290B is currently \$585, but will increase to \$630 on November 23, 2010. Any appeal or motion filed on or after November 23, 2010 must be filed with the \$630 fee. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the application for an extension of stay on August 31, 2009, and denied the petitioner's subsequent motion to reopen and reconsider, filed on February 24, 2010, as untimely filed. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will reject the appeal.

The U.S. Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 214.1(c)(4) requires that an extension of stay may not be approved for an applicant who failed to maintain the previously accorded status or where such status expired before the application or petition was filed except at the discretion of USCIS under certain specified conditions.

An application for extension is concurrent with, but separate from, the nonimmigrant petition. The director approved the petition for a nonimmigrant worker; however, she denied the application for an extension of stay. There is no appeal from the denial of an application for extension of stay filed on Form I-129, Petition for a Nonimmigrant Worker. 8 C.F.R. § 214.1(c)(5). Because the beneficiary's maintenance of status is an extension issue, rather than a petition issue, the AAO lacks the jurisdiction to decide this question on appeal.

As 8 C.F.R. § 214.1(c)(5) does not allow appeal of a denial of an extension of stay, we cannot accept, and therefore must reject, the appeal.

ORDER: The appeal of the denial of an extension of stay is rejected.