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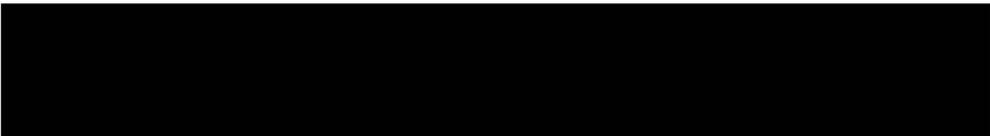
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [Redacted] Office: CALIFORNIA SERVICE CENTER Date: JAN 08 2007
WAC 05 145 53886

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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.

Mari Plusa

Robert P. Wiemann, 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 on appeal. The appeal will be rejected.

The petitioner is a church. It 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 minister. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience as a minister immediately preceding the filing date of the petition.

8 C.F.R. § 103.3(a)(1)(iii) states that, for purposes of appeals, certifications, and reopening or reconsideration, *affected party* (in addition to the Citizenship and Immigration Services) 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 the Service has accepted will not be refunded.

8 C.F.R. § 103.3(a)(2)(v)(A)(2)(i) states that, if an appeal is filed by an attorney or representative without a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) entitling that person to file the appeal, the appeal is considered improperly filed. In such a case, any filing fee the Service has accepted will not be refunded regardless of the action taken.

In this instance, the appeal was filed by an attorney who represents the beneficiary. The record contains several Forms G-28 establishing this representation. The record does not, however, contain any Form G-28 signed by any official of the petitioning church. Therefore, the attorney does not represent the petitioner.

8 C.F.R. §§ 103.3(a)(2)(v)(A)(2)(ii) and (iii) require Citizenship and Immigration Services to contact the attorney or representative in order to obtain a properly executed Form G-28. In this instance, the AAO sent a facsimile message to the attorney on December 12, 2006, requesting such a properly executed Form G-28. The AAO requested a response within five business days. To date, the AAO has received no response to this message. The attorney has, therefore, failed to establish that she represents the petitioning church. We must therefore conclude that the attorney lacked standing to file the appeal.

We acknowledge that the director erroneously considered the attorney to be the petitioner's attorney of record, addressing correspondence to the attorney. The director's error, however, does not override the controlling regulations or otherwise compel the AAO to regard the attorney as the petitioner's counsel.

The appeal has not been filed by the petitioner, nor by any entity with legal standing in the proceeding, but rather by the beneficiary's attorney. Therefore, the appeal has not been properly filed, and must be rejected.

ORDER: The appeal is rejected.