



U.S. Citizenship  
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FILE: [REDACTED]  
SRC 01 134 51462

Office: TEXAS SERVICE CENTER

Date: JAN 24 2007

IN RE: 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 VICTORY CHRISTIAN CENTER:



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.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, Texas 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 also enter a separate finding of fraud.

The alien 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 for [REDACTED] a church of the Church of God denomination. The director denied the petition for a variety of reasons, most significantly (for our purposes) the conviction on immigration fraud related charges of the individual who prepared the petition and accompanying documents.

Part 1 of the Form I-360 petition identifies [REDACTED] as the petitioner. Review of the petition form, however, precludes this finding. 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," shows the printed name of [REDACTED] official but Mr. [REDACTED] did not sign the form. The signature reads [REDACTED]. Thus, [REDACTED] did not take responsibility for the content of the petition at the time of filing. Part 10 of the Form I-360 indicates that [REDACTED] Executive Director of Global Evangelism Task Force (GETF), prepared the petition. The form indicates that GETF is located at [REDACTED] Dumfries, Virginia.

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 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) 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 party that filed the appeal was [REDACTED] which has no standing to file an appeal. We must, therefore, reject the appeal as improperly filed.

The above discussion explains why [REDACTED] is not the petitioner, but it does not answer the question of who the petitioner is. The signature on the Form I-360 would indicate that [REDACTED] is the petitioner, but other materials in the record prevent that conclusion.

In addition to the Form I-360, three other documents in the record, all letters, bear the purported signature of [REDACTED]. Two of these letters, on GETF letterhead, also bear the signature of [REDACTED]. The first of these jointly signed letters identifies [REDACTED] as the "Church of God's Regional Hispanic Coordinator for Eastern U.S.A."; the second letter calls him the "Church of God's Coordinator for the Washington D.C. metro-area." The remaining letter is on what purports to be the letterhead of the "Office of the Regional Coordinator of the Church of God." On all three of these letters, the address printed on the letterhead is [REDACTED] Dumfries (GETF's address).

On October 31 and November 1, 2002, [REDACTED] gave a sworn statement to an official of what was then the Immigration and Naturalization Service. In this statement, [REDACTED] admitted to creating numerous false documents in furtherance of special immigrant religious worker petitions. He further admitted that he had forged the signature of [REDACTED]. When presented with a list of special immigrant religious worker petitions, [REDACTED]

admitted that all of the petitions “contain some altered diplomas and documents.” The present petition is on this list.

On November 5, 2004, was convicted in federal court of six counts of visa and immigration fraud and one count of harboring illegal aliens. He fled the United States before he could be sentenced.

Given admission that he forged signature, and the submission of a letter supposedly from that shows the street address of and GETF, we conclude that the person who signed the Form I-360 was actually signing under Sias name. This would make the *de facto* petitioner, but he clearly did not sign the petition in good faith, as he apparently acted without the knowledge or consent of the real . The director concluded that the petition was never properly filed and, therefore, is not valid.

Because the sworn statement and subsequent conviction of raised obvious concerns regarding the credibility and authenticity of petitions that he had prepared, the director issued a notice of intent to deny (NOID) on October 3, 2005, and mailed the notice to . In that notice, the director requested additional documentation, and informed of the conviction of . The director instructed to submit a new Form I-360 petition signed by a “current authorized officer” of .

Attorney submitted a response to the NOID, which the director received on November 3, 2005. The response did not include a newly signed Form I-360, or any explanation for the absence of such a form.

The director denied the petition on November 8, 2005, noting that did not provide a new petition or explain its failure to do so. The director found that the petition is invalid because it was never properly filed. This being the case, it is not clear why the director denied the petition rather than reject it outright. By serving with a denial notice, including an advisory of appeal rights, the director erroneously gave the impression that was the petitioner and as such had the right to appeal the matter. This error does not compel the AAO to accept the appeal; prior adjudicative error creates no binding precedent. *See Sussex Engg. Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987), *cert. denied*, 485 U.S. 1008 (1988).

through a new attorney, filed an appeal on December 9, 2005. The appeal includes a newly executed Form I-360, signed by and dated December 6, 2005. attorney states that “is in semi-retirement” and “neglected to fully follow and address the ‘map’ the Service provide[d] in the Notice.” The attorney also asserts that Mr. “would have signed the I-360 petition back in March of 2001 had Mr. properly handled the matter.” The attorney does not contest the fraud conviction of but asserts that the present petition is entirely legitimate and should not be tainted by involvement.

Pursuant to 8 C.F.R. § 103.2(a)(7), no petition may be assigned a filing date until it is properly filed, including a proper signature. Therefore, the director appears to have erred by implying that the submission of a properly signed Form I-360 petition would have allowed to become the petitioner while retaining the original March 23, 2001 submission date as the filing date. Notwithstanding such error, however, did not submit the form when the director specifically instructed to do so. We will not consider the untimely submission of the Form I-360. *See Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *Matter of Obaigbena*, 19 I&N Dec. 533 (BIA

1988). The submission of the form at the time of the NOID was not optional, and the director did not indicate that the form would be accepted at a later time. [REDACTED] has the right to file a new, properly signed petition on the beneficiary's behalf, with a new fee and all required evidence, but [REDACTED] opportunity to submit a duly signed petition in the current proceeding has passed.

With regard to the allegations regarding [REDACTED] deficient handling of the prior submission, any appeal or motion based upon a claim of ineffective assistance of counsel requires: (1) that the claim be supported by an affidavit of the allegedly aggrieved respondent setting forth in detail the agreement that was entered into with counsel with respect to the actions to be taken and what representations counsel did or did not make to the respondent in this regard, (2) that counsel whose integrity or competence is being impugned be informed of the allegations leveled against him and be given an opportunity to respond, and (3) that the appeal or motion reflect whether a complaint has been filed with appropriate disciplinary authorities with respect to any violation of counsel's ethical or legal responsibilities, and if not, why not. *Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988), *aff'd*, 857 F.2d 10 (1st Cir. 1988). In this instance, [REDACTED] provides only a copy of an electronic mail message from Mr. [REDACTED] in which he refers to himself as "semi-retired."

As it stands [REDACTED] was not the petitioner at the time of filing. It passed by an opportunity to remedy this flaw, and once again [REDACTED] was not the petitioner at the time of the denial. [REDACTED] therefore, has never had standing to appeal the director's decision, or to file any motion relating to the present proceeding.

Upon consideration of the facts in evidence, we concur with the director's finding that the original petition is invalid because it was filed with a forged signature by a man who later admitted to the forgery and to including falsified documents in this particular record of proceeding, before being convicted on multiple counts relating to immigration fraud. [REDACTED] failed to establish its standing as an affected party in a timely manner, and therefore had no standing to file an appeal at the time it attempted to do so. We must, therefore, reject the appeal, both because [REDACTED] was not an affected party at the time of filing, and because the underlying petition itself was never valid to begin with.

On the basis of his own confession and his subsequent conviction, the AAO finds that [REDACTED] knowingly prepared and submitted documents containing false statements in an effort to mislead CIS and the AAO on an element material to the beneficiary's eligibility for a benefit sought under the immigration laws of the United States. *See* 18 U.S.C. §§ 1001, 1546. The AAO will enter a finding of fraud.

**ORDER:** The appeal is rejected.

**FURTHER ORDER:** The AAO finds that [REDACTED] knowingly submitted documents containing false statements in an effort to mislead CIS and the AAO on an element material to the beneficiary's eligibility for a benefit sought under the immigration laws of the United States.