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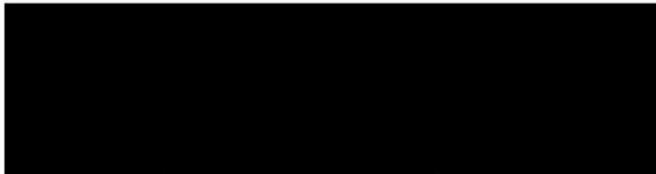
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE:

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Office: CALIFORNIA SERVICE CENTER

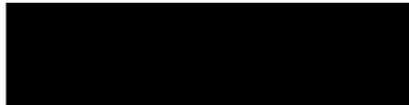
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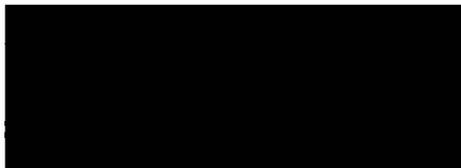
Petitioner:

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:



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. Wiemam, 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 appeal will be rejected. The AAO will return the matter for further action by the director.

The self-petitioning 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 Franciscan sister with the Community of the Franciscan Sisters of the Renewal. The director determined that the petitioner had not established that she had the requisite two years of continuous work experience as a sister immediately preceding the filing date of the petition.

Part 1 of the Form I-360 petition identifies the alien beneficiary as the petitioner, but also identifies the “Company or Organization” as “Community Franciscan Sisters of the Renewal,” in care of Sr. Lucille Cutrone at the Convent of San Damiano. Part 3 of the Form I-360 shows a different address for the self-petitioning alien, at the Convent of Our Lady of Guadalupe.

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 Citizenship and Immigration Services (CIS)) means the person or entity with legal standing in a proceeding. 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 not the petitioner, nor any attorney or accredited representative of the petitioner, but rather ██████████ of Centro Santa Ana, Inc. On the Form I-290B Notice of Appeal, ██████████ identified herself as “an attorney or representative” representing the petitioner. On Form G-28, Notice of Entry of Appearance as Attorney or Representative, ██████████ states: “Centro Santa Ana, Inc. is sponsored by the Franciscan [*sic*] Friars of the Renewal, a religious congregation affiliated [with] the Archdioceses [*sic*] of New York recognized by the Board [of Immigration Appeals].”

██████████ has not specifically claimed to be an attorney. The most recent accreditation roster from the Board does not list ██████████ as an accredited representative, nor does it list Centro Santa Ana or the Franciscan Friars of the Renewal as recognized organizations.

On October 29, 2007, the AAO wrote to ██████████, stating, in part:

The Form G-28 does not establish your eligibility to appear as an attorney, or as an accredited representative of an organization recognized and accredited by the Board of Immigration Appeals as defined in 8 C.F.R. §§ 103.2 and 292.1(a)(4). You list no location in which you are admitted to the practice of law, nor are you listed on the most recent Roster of Recognized Organizations and Accredited Representatives maintained by the Executive Office for Immigration Review. . . .

If you believe this review of your eligibility to appear is in error, further proof of your authority to appear as an attorney or accredited representative is required pursuant to 8 C.F.R.

§ 292.4(a). Please forward proof of your admission to practice law and certification that you are in good standing, or a copy of the Board of Immigration Appeals decision granting your application for accreditation as a representative of a recognized organization within fifteen (15) days of the date of this letter.

The fifteen-day response period has elapsed and, to date, the record contains no response from [REDACTED]. Therefore, [REDACTED] has failed to establish that she is either an attorney in good standing, or an accredited representative of a Board-recognized organization. Therefore, [REDACTED] has failed to establish standing to file an appeal on the petitioner's behalf.

We note the subsequent submission of a new Form G-28, naming V [REDACTED] as the petitioner's attorney of record effective November 6, 2007. Mr. [REDACTED] did not file the appeal, and the submission of his Form G-28 at this stage does not alter or affect the AAO's finding that the appeal was not properly filed by an attorney or accredited representative.

We note, at the same time, that the director sent the notice of decision not to the alien self-petitioner, but to the Convent of San Damiano, presumably because the Form I-360 showed that address. Thus, the director has never issued any relevant notices to the petitioner herself. The director sent a copy of the decision to N [REDACTED], but as we have established, [REDACTED] is not in a position to represent the petitioner. The director erred by considering [REDACTED] to be the petitioner's authorized representative, and erred again by sending the notice of decision to [REDACTED] (thereby creating the false impression that an appeal from [REDACTED] could be accepted).

8 C.F.R. § 103.5a(a)(1) defines "routine service" as mailing a copy by ordinary mail addressed to a person at his last known address. 8 C.F.R. § 103.5a(b) states that service by mail is complete upon mailing. Here, because the director addressed the notices to the attention of the non-petitioning convent (where the self-petitioning alien did not reside) and to an unauthorized representative, rather than to the alien self-petitioner herself, the director has arguably never served the notice of denial. Thus, the self-petitioning alien has never had the opportunity to file a timely appeal. The director must reissue the denial notice in order to give the actual petitioner that opportunity.

Because there is, as yet, no valid appeal in the record, we examine, here, neither the basis of the denial nor the merits of the appeal submitted by [REDACTED]. We will duly consider those factors if and when the self-petitioning alien files a proper and timely appeal, either on her own behalf or through a recognized representative or attorney.

The appeal has not been filed by the petitioner, or by any entity with legal standing in the proceeding, but rather by an unaccredited representative. Therefore, the appeal has not been properly filed, and must be rejected. The director must serve a newly dated copy of the decision, properly addressed to the petitioner.

ORDER: The appeal is rejected. The matter is returned to the director for the limited purpose of the reissuance of the decision.