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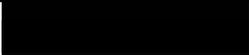
U.S. Citizenship
and Immigration
Services

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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: DEC 30 2008

WAC 07 257 54252

IN RE:

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:

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.

A handwritten signature in black ink, appearing to read "John F. Grissom".

John F. Grissom, Acting 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 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 Christian Education Director. The director determined that the petitioner had not established: (1) that the beneficiary had the requisite two years of membership in the petitioner's denomination immediately preceding the filing date of the petition, (2) that it had the ability to pay the beneficiary's salary, (3) that the beneficiary was qualified to perform the duties of the proffered position, and (4) that the beneficiary had the requisite two years of continuous work experience immediately preceding the filing date of the petition.

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 the United States Citizenship and Immigration Services [USCIS]) 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)(I) 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 USCIS has accepted will not be refunded.

The Form I-360 petition was signed by [REDACTED] of the petitioning church. The appeal, however, was filed by [REDACTED] an attorney who represented the beneficiary.¹ The record does not contain a Form G-28 from [REDACTED] or any other attorney on the petitioner's behalf. Accordingly, as the appeal has not been filed by the petitioner, or by any entity with legal standing in the proceeding, but rather by an attorney who represented the beneficiary, the appeal has not been properly filed, and must be rejected.

Even if the appeal were not rejected, it would be summarily dismissed. On appeal, counsel failed to address the director's reasons for denial and to specifically identify any erroneous conclusions of fact or law on the part of the director. Further, while counsel also indicated that further evidence and a brief would be provided to the AAO within 30 days, to date, more than 9 months later, the AAO has received nothing further.

As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. Counsel here has not specifically addressed the reasons stated for denial and has not provided any additional evidence. Were the appeal not rejected for standing, therefore, it would be summarily dismissed.

ORDER: The appeal is rejected.

In a fax dated December 15, 2008, [REDACTED] indicated that he no longer represented the beneficiary.