

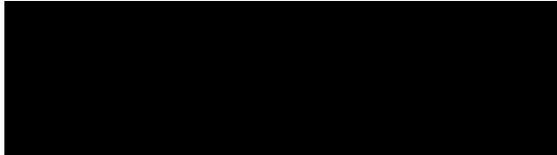
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U.S. Citizenship
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Services

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FILE: [REDACTED]
WAC 07 027 50704

Office: CALIFORNIA SERVICE CENTER

Date: JAN 02 2008

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.

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 (AAO) on appeal. The appeal will be rejected.

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 the pastor of [REDACTED]. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience as a pastor immediately preceding the filing date of the petition. In addition, the director determined that the petitioner had not established the prospective employer's ability to compensate the beneficiary.

Part 1 of the Form I-360 petition identifies [REDACTED] Hyattsville, Maryland, as the petitioner. Review of the petition form, however, indicates that the alien beneficiary is the petitioner. 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," has been signed not by any church official, but by the alien beneficiary himself. Thus, the alien, and not the church, has taken responsibility for the content of the petition.

The Citizenship and Immigration Services (CIS) regulation at 8 C.F.R. § 103.2(a)(3) specifies that a petitioner may be represented "by an attorney in the United States, as defined in § 1.1(f) of this chapter." 8 C.F.R. § 1.1(f) reads, in full:

The term *attorney* means any person who is a member in good standing of the bar in the highest court of any State, possession, territory, Commonwealth, or the District of Columbia, and is not under any order of any court suspending, enjoining, restraining, disbaring, or otherwise restricting him in the practice of law.

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 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)(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 CIS has accepted will not be refunded.

The Form I-290B Notice of Appeal, filed on July 6, 2007, was signed by [REDACTED] acting as the petitioner's attorney. Accompanying the appeal is a Form G-28, Notice of Entry of Appearance as Attorney or Representative, executed July 3, 2007. On the Form G-28 [REDACTED] indicated that he was "an attorney and a member in good standing of the bar of the . . . District of Columbia Court of Appeals and [is] not under a court or administrative agency order suspending, enjoining, restraining, disbaring, or otherwise restricting [him] in practicing law."

As late as August 6, 2007, [REDACTED] continued to act as the petitioner's attorney, submitting a brief and a supplement to the previously filed appeal. On the brief, [REDACTED] identified himself as "Attorney for the Petitioner."

On June 21, 2007, the District of Columbia Court of Appeals suspended [REDACTED] from the practice of law for one year. Therefore, [REDACTED] was *not* a member in good standing of the bar of the District of Columbia Court of Appeals as of July 3, 2007, when he executed Form G-28, or as of July 6, 2007, when the appeal was filed. Subsequently, on October 16, 2007, on the basis of this suspension, the Board of Immigration Appeals suspended [REDACTED] from practicing before the Department of Homeland Security.

The above information shows that, at the time the appeal was filed, [REDACTED] did not meet the definition of an "attorney" at 8 C.F.R. § 1.1(f), and therefore was not entitled to represent the petitioner or file an appeal on the petitioner's behalf.

For this reason, as of this writing, the AAO cannot and does not consider [REDACTED] to be the petitioner's attorney of record. The AAO considers the petitioner to be self-represented, and will not provide a copy of its decision to [REDACTED]. We note that the District of Columbia suspended [REDACTED] from practicing law for one year as of June 21, 2007, meaning that [REDACTED] was already under suspension when he filed the present appeal more than two weeks later. The record does not establish whether or not [REDACTED] advised the petitioner of his suspension at that time.

CIS regulations specifically state that an appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. 8 C.F.R. §§ 103.3(a)(2)(v)(A)(I). Here, the person who filed the appeal was not an affected party, nor was he the attorney *in good standing* of an affected party. Accordingly, the AAO will reject the appeal pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

ORDER: The appeal is rejected.