



U.S. Citizenship
and Immigration
Services

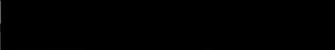
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FILE:



Office: CALIFORNIA SERVICE CENTER

Date: **MAY 20 2008**

WAC 05 229 51277

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:



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, initially approved the employment-based immigrant visa petition. Upon further review, the director determined that the petition had been approved in error. The director properly served the petitioner with a notice of intent to revoke, and subsequently revoked the approval of the 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 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 translator and vice chairman of the Christian Educational Department of the Western Diocese of the Armenian Church of North America (hereafter “the diocese”).

Part 1 of the Form I-360 petition identifies the diocese 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 official of the diocese, but by the alien beneficiary himself. Thus, the alien, and not the diocese, has taken responsibility for the content 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 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)(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.

Here, the appeal was filed not by the petitioner, nor by any attorney or accredited representative of the petitioner, but rather by an archbishop of the diocese, which has no standing to file an appeal on the petitioner’s behalf. We must, therefore, reject the appeal as improperly filed.

We note, at the same time, that the director sent the notice of decision not to the alien self-petitioner, but to the diocese, presumably because the Form I-360 identified the diocese as the petitioner. Thus, the director has never issued any relevant notices to the petitioner himself at the petitioner’s address of record. By addressing the revocation notice, including the notification of appeal rights, to the diocese rather than to the alien beneficiary, the director incorrectly implied that the diocese had the right to file an appeal from that decision.

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 diocese, rather than to the alien self-petitioner himself, the director has arguably never properly served the notice of revocation. Thus, the self-petitioning alien has never had the opportunity to file a timely appeal. The director must reissue the revocation notice in order to give the actual petitioner that opportunity.

We note that, if the alien petitioner chooses to appeal the director’s decision, statements from diocese officials will be duly considered, albeit as witness statements rather than as the petitioner’s own arguments. Because there is, as yet, no valid appeal in the record, we examine, here, neither the basis of the revocation nor the merits of the

appeal submitted by the diocese. We will duly consider those factors if and when the self-petitioning alien files a proper and timely appeal.

The appeal has not been filed by the petitioner, or by any entity with legal standing in the proceeding, but rather by the diocese. 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.

We note that a second petition, receipt number WAC 08 017 51867, was filed on the alien's behalf on or about October 24, 2007, and approved on February 20, 2008. The present notice concerns the revocation of the first petition, filed in 2005 and revoked in 2007, and is without prejudice to the approved petition filed in 2007 and any adjustment or other proceedings that may arise from that approved petition.

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