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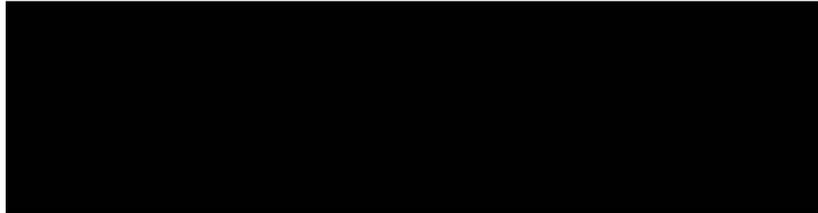
FILE:

SRC 05 100 50652

Office: TEXAS SERVICE CENTER Date: OCT 01 2008

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, Texas Service Center, denied the employment-based immigrant visa petition. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on a motion to reopen. The motion will be dismissed.

The petitioner 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 pastor at the Prayer Center, described as a church in Cleveland, Tennessee. The director denied the petition on several grounds. The AAO reversed several of the director's findings, but affirmed the director's finding that the petitioner had not established that the prospective employer is able to remunerate the petitioner. The AAO added that examination of the evidence of record raised several significant questions of credibility.

Any motion to reopen a proceeding before Citizenship and Immigration Services (CIS) filed by an applicant or petitioner, must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires, may be excused in the discretion of CIS where it is demonstrated that the delay was reasonable and was beyond the control of the applicant or petitioner. 8 C.F.R. § 103.5(a)(1)(i).

A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

In this instance, the AAO dismissed the petitioner's appeal on August 3, 2007. The motion to reopen was filed five and a half months later, on January 18, 2008.

On motion, the petitioner submits what counsel describes as "voluminous new documentation," largely to do with the finances of the Prayer Center. Counsel asserts that "[i]t has taken several months to prepare this additional record." The petitioner has not persuasively demonstrated that the assembly of the employer's own payroll and financial records is a venture that required "several months" to complete. Many of the payroll records are dated well before the dismissal notice, and thus were presumably already in the employer's possession before the AAO rendered its prior decision.

The motion does not include any explanation or evidence to show that the delay in filing was reasonable and was beyond the control of the petitioner. The untimely filing of the motion to reopen, with no showing that the delay was reasonable and was beyond the control of the petitioner, requires dismissal of the motion pursuant to 8 C.F.R. § 103.5(a)(4).

**ORDER:** The motion is dismissed due to untimely filing.