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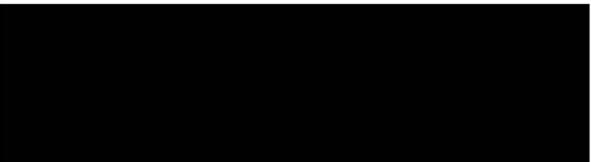
U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, D.C. 20529-2090



U.S. Citizenship
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Services

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FILE: WAC 08 023 51324 Office: CALIFORNIA SERVICE CENTER Date: **FEB 03 2009**

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.

John F. Grissom, Acting Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, rejected the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

There are two factors, each of which would, by itself, independently require the AAO to reject the appeal. The AAO will discuss both of these factors here.

First, no appealable decision has been rendered. While the regulations at 8 C.F.R. § 103.3 address the means by which a denied petition may be appealed, and the regulations at 8 C.F.R. § 205.2(d) discuss appeals of revocations, there exists no provision by which a petitioner may appeal the rejection of a petition. Pursuant to 8 C.F.R. § 103.2(a)(7)(i), a rejected petition retains no filing date and is not considered to have been properly filed. Because no valid proceeding arises from a rejected petition, there can be no appeal of a rejection. If a petitioner seeks to pursue the matter, the proper course of action is to re-file the petition rather than to contest the rejection.

Because there is no provision for the present appeal to exist, the appeal must be rejected.

The second issue concerns standing. 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 U.S. 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.

In this instance, USCIS records identify the petitioner as [REDACTED]

The record before the AAO contains no other information about the petitioner. The appeal was filed by one [REDACTED], who was repeatedly identified as an attorney representing not the petitioner, but the beneficiary.

The appeal has not been filed by the petitioner, or by any entity with legal standing in the proceeding, but rather on behalf of the beneficiary. Therefore, the appeal has not been properly filed, and would have been rejected even if the director had rendered an appealable decision.

The appeal will be rejected for the above stated reasons, with each considered as an independent and alternative basis for rejection.

ORDER: The appeal is rejected.