

identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

**PUBLIC COPY**

C,



FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: NOV 06 2009  
WAC 08 163 50446

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

Perry Rhew  
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 AAO will reject the appeal.

8 C.F.R. 103.3(a)(1)(iii) states, in pertinent part:

(B) *Meaning of affected party.* For purposes of this section and sections 103.4 and 103.5 of this part, *affected party* (in addition to the Service) 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) states:

*Improperly filed appeal -- (A) Appeal filed by person or entity not entitled to file it -- (1) Rejection without refund of filing fee.* 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 the Service has accepted will not be refunded.

The appeal has not been filed by the petitioner, or by any entity with legal standing in the proceeding, but rather by the beneficiary's attorney. On Form I-290B, Notice of Appeal, the attorney specifies that he filed the appeal on the beneficiary's behalf. Also, on Form G-28, Notice of Entry of Appearance as Attorney or Representative, filed with the appeal, the attorney claims only to act on behalf of the beneficiary, not the petitioner. The record contains no Form G-28 signed by any official of the petitioning church. Therefore, the appeal has not been properly filed, and must be rejected.

We note that, even if we had not rejected the appeal, we would have summarily dismissed the appeal. 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part, "[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal." In this instance, the appeal consists solely of copies of previously submitted materials, and the assertion that the petitioner submitted those materials on October 1, 2008, whereas the director stated that the materials were received on October 8, 2008. The director did not base the denial, in whole or in part, on the date that the director received those materials. Rather, the director gave the petitioner's submission full consideration, and based the denial on the content, not the timing, of that submission. Therefore, the assertion that the petitioner responded to the notice on October 1, 2008 adds nothing of substance to the record.

We further note that, according to 8 C.F.R. § 103.2(a)(7)(i), the relevant date is not the date of mailing, but the date of actual receipt. Therefore, the October 1 postmark on the petitioner's correspondence does not contradict the factually correct finding that the director received the correspondence on October 8. The appeal contains no response to the stated grounds for denial.

**ORDER:** The appeal is rejected.