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



U.S. Citizenship
and Immigration
Services

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[REDACTED]

FILE: [REDACTED] Office: VERMONT SERVICE CENTER
EAC 01 177 55629

Date: OCT 14 2009

IN RE: Petitioner:
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:

[REDACTED]

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, Vermont Service Center, denied the immigrant petition and certified its decision to the Administrative Appeals Office (AAO) for review. The AAO affirmed the director's decision on December 22, 2006 with a separate finding of willful misrepresentation of a material fact. Pursuant to a stipulation in Civil Action No. CV-07-4381, E.D.N.Y., April 18, 2008, the AAO reopened this matter pursuant to 8 C.F.R. § 103.5(a)(5)(ii) for the limited purpose of revisiting the finding of willful misrepresentation of a material fact. The AAO will reaffirm its prior finding of willful misrepresentation of a material fact.

The AAO made its finding of willful misrepresentation in its December 22, 2006 appellate decision. The petitioner did not dispute the denial of the petition, but contested the finding of willful misrepresentation in federal court as described above. As a result of this litigation, the AAO agreed to provide the petitioner a final opportunity to explain the discrepancies which had led to the finding of willful misrepresentation.

On June 24, 2009, the AAO reopened the proceeding and advised the petitioner that the AAO would once again enter a finding of material misrepresentation unless the petitioner provided documentary evidence to refute such a finding. The AAO described the grounds for its finding in its June 24, 2009 notice, incorporated here by reference. The AAO also advised the petitioner of additional information that had recently surfaced, which indicated further misrepresentation. The AAO allowed the petitioner 84 days (12 weeks) to submit evidence and/or arguments.

The response period has ended, and the AAO has received no further response either from the petitioner or from counsel. We interpret this lack of response to mean that the petitioner has abandoned its efforts to contest the AAO's previous finding. *Cf.* 8 C.F.R. § 103.2(b)(13) (If the petitioner or applicant fails to respond to a request for evidence or to a notice of intent to deny by the required date, the application or petition may be summarily denied as abandoned).

Because the petitioner has offered neither evidence nor argument to address or refute the AAO's assertions, we reaffirm our prior finding of willful misrepresentation of material facts. This finding of material misrepresentation shall be considered in any future proceeding where admissibility is an issue.

ORDER: The AAO reaffirms its December 22, 2006 finding that the petitioner and the beneficiary knowingly misrepresented material facts relating to the beneficiary's employment and income in order to conceal potentially disqualifying information relating to the beneficiary's eligibility for a benefit sought under the immigration laws of the United States.