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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

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MAR 18 2010



FILE: WAC 08 196 51984 Office: CALIFORNIA SERVICE CENTER Date:

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)

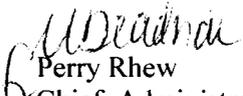
ON BEHALF OF PETITIONER:

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, as required by 8 C.F.R. 103.5(a)(1)(i).


Perry Rhew
Chief, Administrative Appeals Office

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

Part 1 of the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, identifies the [REDACTED] as the petitioner. Review of the petition form, however, indicates that the alien 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 church official, but by the alien himself. Thus, the alien, and not the church, has taken responsibility for the content of the petition.

The regulation at 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. The regulation at 8 C.F.R. § 103.3(a)(2)(v) 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.

Here, the party that signed the Form I-290B Notice of Appeal or Motion was not the petitioner, nor any attorney or accredited representative of the petitioner, but rather by [REDACTED] as attorney for, the prospective employer, [REDACTED], who has no standing to file an appeal on the petitioner's behalf. We must, therefore, reject the appeal as improperly filed.

We note that in her decision denying the petition, the director noted that the alien was the self-petitioner. On appeal, [REDACTED], who identified himself as the president of the prospective employer, stated that the Form I-360 "was inadvertently signed by the beneficiary. In fact it should have been signed by me representing the [REDACTED]."

On appeal, the petitioner submits a new Form I-360 signed by [REDACTED] as representative for the employing organization. However, USCIS is statutorily prohibited from providing multiple adjudications for a single petition with a single fee. The initial filing fee for the Form I-360 covered the cost of the director's adjudication of the Form I-360 filed by the alien as the self-petitioner. Pursuant to section 286(m) of the Act, 8 U.S.C. § 1356, USCIS is required to recover the full cost of adjudication. In addition to the statutory requirement, Office of Management and Budget (OMB) Circular A-25 requires that USCIS recover all direct and indirect costs of providing a good, resource, or service.¹ If the prospective employer now seeks classification of the alien worker as a religious worker, then it must file a new I-Form 360 as the petitioner, accompanied by the appropriate filing fee.

The appeal has not been filed by the petitioner, or by any entity with legal standing in the proceeding, but rather by the legal representative of the organization that seeks to employ the petitioner. Therefore, the appeal has not been properly filed, and must be rejected.

¹ See <http://www.whitehouse.gov/omb/circulars/a025/a025.html>.

ORDER: The appeal is rejected.