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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**



C1

Date: Office: [Redacted]

FILE: [Redacted]

APR 12 2011

WAC 05 240 51151

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, initially approved the employment-based immigrant visa petition. On further review, the director determined that the petitioner was not eligible for the visa preference classification. The director subsequently exercised her discretion to revoke approval of the petition on September 30, 2009. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected. The AAO will return the matter for further action by the director.

Part 1 of the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, identifies the Santa Teresa Ministry 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 herself. 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 was not the petitioner, nor any attorney or accredited representative of the petitioner, but rather by [REDACTED] on behalf of [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, at the same time, that the director sent the notice of decision not to the self-petitioner, but to [REDACTED] presumably because the Form I-360 identified that organization as the petitioner. Thus, the director has never issued any relevant notices to the petitioner.

The regulation at 8 C.F.R. § 103.5a(a)(1) defines "routine service" as mailing a copy by ordinary mail addressed to a person at his last known address, and the regulation at 8 C.F.R. § 103.5a(b) states that service by mail is complete upon mailing. Here, because the director addressed the notice to the church, rather than to the alien self-petitioner, the director has arguably never served the notice of denial. Thus, the self-petitioning alien has never had the opportunity to file a timely appeal. The director must reissue the denial notice in order to give the actual petitioner that opportunity.

We note that, if the self-petitioner chooses to appeal the director's decision, statements from church officials will be duly considered, albeit as witness statements rather than as the petitioner's own arguments. Because there is, as yet, no valid appeal in the record, we will not yet examine the merits of the appeal submitted by the church. We will duly consider those factors if and when the self-petitioning alien files a proper and timely appeal.

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. The director must serve a newly dated copy of the decision, properly addressed to the petitioner.

ORDER: The appeal is rejected. The matter is returned to the director for the limited purpose of the reissuance of the Notice of Intent to Revoke approval of the petition and a new decision.