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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: **APR 21 2011** OFFICE: [REDACTED] FILE: [REDACTED]

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)

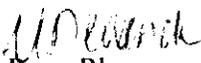
ON BEHALF OF PETITIONER:

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.

Thank you,


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, [REDACTED] 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 and return the petition for further action by the director.

The alien seeks classification as a 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), to perform services as an assistant pastor at [REDACTED] Church [REDACTED] in [REDACTED]. The director determined that the petitioner had not established that the beneficiary had the required two years of continuous, lawful, qualifying work experience immediately preceding the filing date of the petition.

Part 1 of the Form I-360 petition identifies the church 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 10 of the Form I-360, "Signature," shows the signature not of any church official, but of the alien himself. Thus, the alien, and not the church, has taken responsibility for the content of the petition.

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. The USCIS regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(1) 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, USCIS will not refund any filing fee it has accepted.

Here, the party that filed the appeal was not the petitioner, nor any attorney or accredited representative of the petitioner, but rather an attorney, [REDACTED] who represented the church. Because the church did not file the petition, it is not an affected party, and therefore its attorney has no standing to file an appeal on the petitioner's behalf. (The record contains no Form G-28, Notice of Entry of Appearance as Attorney or Representative, signed by both [REDACTED] and the self-petitioning alien to show that [REDACTED] ever had authority to make filings on the alien'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-petitioning alien, but to the church, presumably because the Form I-360 identified the church as the petitioner. Thus, the director has never issued any relevant notices to the petitioner himself.

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. 8 C.F.R. § 103.5a(b) states that service by mail is complete upon mailing. Here, because the director never sent any denial notice to the self-petitioning alien, 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-petitioning alien chooses to appeal the director's decision, we will duly consider statements from church officials, but 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 examine, here, the basis of the denial. We will duly consider those factors if and when the self-petitioning alien files a proper and timely appeal.

The party that filed the appeal is not an affected party with legal standing in the proceeding. Therefore, we must reject the appeal as improperly filed. The director must serve a newly dated copy of the decision, properly addressed to the true petitioner. In correspondence dated April 17, 2010, the self-petitioning alien stated that he has no legal representation, and therefore the director need not serve a copy of the notice on any attorney or representative.

ORDER: The appeal is rejected. The matter is returned to the director for the limited purpose of the reissuance of the decision.