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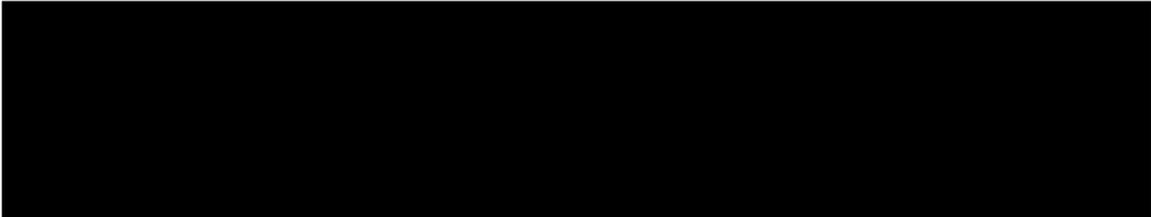
PUBLIC COPY

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**

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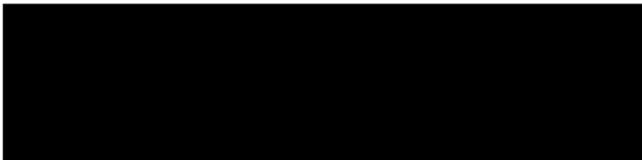


DATE: **APR 02 2012** OFFICE: CALIFORNIA SERVICE CENTER 

IN RE: 

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:



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, 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 and return the petition for further action by the director.

The alien beneficiary 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 a nun at [REDACTED]. The director determined that no permanent job offer exists, and that the beneficiary had filed the petition on her own behalf without authorization from the Diocese to do so.

Part 1 of the Form I-360 petition identifies the convent as the petitioner. Review of the petition form, however, indicates that the alien beneficiary 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 convent official, but by the alien beneficiary herself. Thus, the alien, and not the convent or any other church authority, has taken responsibility for the content of the petition. The director, in the denial notice, acknowledged that "the original Form I-360 petition was signed and dated by the beneficiary on July 6, 2007."

The U.S. Citizenship and Immigration Services (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, any filing fee USCIS has accepted will not be refunded. Here, the party that filed the appeal was not the self-petitioning alien, nor any attorney or accredited representative of the petitioner, but rather [REDACTED] of the convent, who has no standing to file an appeal on the petitioner's behalf. The AAO must, therefore, reject the appeal as improperly filed.

The AAO notes, at the same time, that the director sent the notice of decision not to the self-petitioning alien, but to the convent, presumably because the Form I-360 identified the convent as the petitioner. Thus, the director has never issued any relevant notices to the petitioner herself, even though, in the denial notice, the director specifically refuted the claim that the beneficiary was not the petitioner.

The USCIS regulation at 8 C.F.R. § 103.8(a)(1)(i) defines "routine service" as mailing the notice by ordinary mail addressed to the affected party and his or her attorney or representative of record at his or her last known address. Service by mail is complete upon mailing. 8 C.F.R. § 103.8(b). Here, the director never addressed the notice of denial to the attention of the alien self-petitioner. Therefore, 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.

If the alien petitioner chooses to appeal the director's decision, statements from convent officials will receive due consideration, albeit as witness statements rather than as the petitioner's own assertions. Because there is, as yet, no valid appeal in the record, the AAO will examine, here, neither the basis of the denial nor the merits of the appeal submitted by the convent. The AAO will duly consider those factors if and when the self-petitioning alien files a proper and timely appeal.

The party that filed the appeal was neither the self-petitioner nor any entity with legal standing in the proceeding, but rather the convent. Therefore, USCIS must reject the appeal as improperly filed. The director must serve a newly dated copy of the decision, properly addressed to the self-petitioner.

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