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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

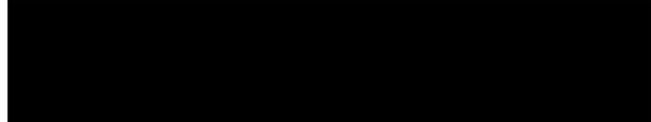


U.S. Citizenship  
and Immigration  
Services



C1

DATE: **APR 05 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,

3 Perry Rhew  
Chief, Administrative Appeals Office

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

The petitioner is identified as a church. It seeks to classify the beneficiary 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). The director denied the petition on February 6, 2008, because the petitioner failed to provide evidence that the petitioner is, in fact, a *bona fide* tax-exempt church affiliated with a religious denomination. The director also determined that the petitioner failed to establish that the beneficiary had been performing religious work continuously for at least the two year period immediately preceding the filing of the petition. The AAO notes that the record contains no information at all about the beneficiary's past work experience. The AAO also notes that the petitioner did not even provide a physical address for itself; the only address used is that of the alleged attorney who filed the appeal.

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. 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.

prepared the Form I-360 petition, and the petition form shows address instead of the petitioner's address. Various employees have claimed to be attorneys. The record contains Forms G-28s, Notices of Entry of Appearance as Attorney or Representative, authorizing and other employees to act as the petitioner's attorney. These Forms G-28 identify various employees as the beneficiary's attorneys, but because the beneficiary is not an affected party, an attorney who represents only the beneficiary cannot file an appeal.

Another employee, , signed the Form I-290B Notice of Appeal. The record contains no Form G-28 to designate as the petitioner's attorney of record. The record contains no evidence that is an attorney who has been admitted to the bar of any state or other jurisdiction in the United States.

The appeal has not been filed by the petitioner, or by any entity with legal standing in the proceeding, but rather by a company claiming to represent the beneficiary. Therefore, the appeal has not been properly filed, and must be rejected.

The AAO notes that, even if the appeal had been properly filed, it would be summarily dismissed. At no time in this proceeding has the petitioner provided any information, let alone any actual evidence, regarding information about the bona fides of the alleged church or information about the beneficiary and her work experience. Further, the raised no substantive issues regarding the denial decision in

the section where the appellant must explain any erroneous conclusion of law or fact in the decision being appealed. Therefore, if the appeal had been properly filed, the AAO would have summarily dismissed the appeal pursuant to 8 C.F.R. § 103.3(a)(1)(v), which states, in pertinent part, “[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.” The record of proceeding contains no sign that the petitioner has made any effort whatsoever to establish that the beneficiary qualifies for the benefit sought.

In addition, the appeal is untimely filed. In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party or the attorney or representative of record must file the complete appeal within 30 days of service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.8(b). The date of filing is not the date of mailing, but the date of actual receipt. *See* 8 C.F.R. § 103.2(a)(7)(i).

The record indicates that the director issued the decision on February 6, 2008. It is noted that the service center director gave notice to the petitioner that it had 30 days to file the appeal. Neither the Act nor the pertinent regulations grant the AAO authority to extend this time limit.

Although the petitioner dated the Form I-290B November 11, 2008, it was not received until December 15, 2008, or 313 days after the decision was issued. Accordingly, the appeal was untimely filed, and must be rejected. 8 C.F.R. § 103.3(a)(2)(v)(B)(2).

For the reasons stated above, this appeal will be rejected.

**ORDER:** The appeal is rejected.