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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**

[REDACTED]

C1

DATE: **APR 19 2012** OFFICE: CALIFORNIA SERVICE CENTER [REDACTED]

IN RE: [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:

[REDACTED]

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 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 deacon at the [REDACTED] Miami, Florida. The director determined that the petitioner had not established that the beneficiary had the required two years of continuous, lawful 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 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 10 of the Form I-360, "Signature," has been signed not by any official of the church, but by the alien beneficiary himself. Thus, the alien, and not the church, has taken responsibility for the content of the petition.

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 appeal was filed not by the petitioner, nor by any attorney or accredited representative of the petitioner, but rather the church. Because no authorized church official signed the petition form, the church 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 alien self-petitioner, 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.

The USCIS regulation at 8 C.F.R. § 103.8(a)(1)(i) defines "routine service" as mailing a copy by ordinary mail addressed to a person at his last known address. Service by mail is complete upon mailing. 8 C.F.R. § 103.8(b). Here, because the director addressed the notices to the church, rather than to the alien self-petitioner himself, 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.

The AAO notes that, if the alien petitioner chooses to appeal the director's decision, statements from church 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, USCIS will examine, here, neither the basis of the denial nor the merits of the appeal submitted by the church. USCIS 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 not the petitioner, or any entity with legal standing in the proceeding, but rather his intending employer. 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 decision.