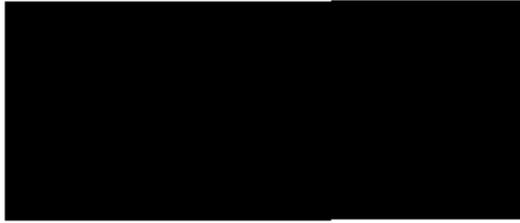


U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



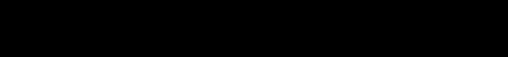
U.S. Citizenship
and Immigration
Services



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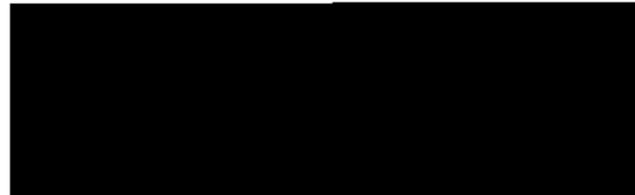
Date: DEC 28 2017 Office: CALIFORNIA SERVICE CENTER



IN RE: Petitioner: 
 Beneficiary: 

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.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen with the field office or service center that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,


Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the employment-based immigrant visa petition. The Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on a motion to reconsider. The motion will be dismissed, the previous decision of the AAO will be affirmed, and the petition will remain denied.

The petitioner is an ecclesiastical institution. 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), to perform services as an imam. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous, lawful, qualifying work experience immediately preceding the filing of the petition. In its June 19, 2012 decision, the AAO agreed with the director's determination and additionally found that the petition was improperly filed as it was not signed by any official of [REDACTED] but rather by that organization's attorney.

On motion, the petitioner submits a brief from counsel, a copy of the AAO's June 19, 2012 dismissal, and a printout regarding "Special Immigrant Religious Workers" from the U.S. Citizenship and Immigration Services (USCIS) website.

In the decision dismissing the petitioner's original appeal, the AAO specifically and thoroughly discussed the petitioner's evidence and determined that the petitioner had not established that the beneficiary had the requisite two years of continuous, lawful, qualifying work experience immediately preceding the filing of the petition. The AAO found that the petitioner failed to establish that the beneficiary held lawful immigration status and employment authorization throughout the qualifying period. Additionally, the AAO noted that an attorney for Masjid Baitul Ul-Haqq signed the Form I-360 in place of the petitioner. The AAO noted that the USCIS regulation at 8 C.F.R. § 103.2(a)(2) states: "An applicant or petitioner must sign his or her application or petition," while the regulation at 8 C.F.R. § 204.5(m)(6) states, in part: "A petition must be filed as provided in the petition form instructions *either by the alien or by his or her prospective United States employer*" (emphasis added).

In the motion to reconsider, the petitioner reiterates an argument already addressed by the AAO in its dismissal of the original appeal, namely that the beneficiary petitioner's evidence demonstrates the beneficiary's continuous work as an imam throughout the qualifying period. The USCIS website printout submitted on motion lists the eligibility criteria for qualification as a special immigrant religious worker, including the requirement that the beneficiary has been performing qualifying religious work "either abroad or *in lawful immigration status in the United States*" for at least the two years immediately preceding the filing of the petition (emphasis added). Regarding the AAO's finding that the petition was improperly filed, counsel only notes that "the form I-290B [is] signed appropriately by the petitioner and the attorney in the respective place." A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or U.S. Citizenship and Immigration (USCIS) policy. 8 C.F.R. § 103.5(a)(3). A motion to reconsider contests the correctness of the original decision based on the previous factual record, as opposed to a motion to reopen which seeks a new hearing based

on new or previously unavailable evidence. See *Matter of Cerna*, 20 I&N Dec. 399, 403 (BIA 1991).

A motion to reconsider is not a process by which a party may submit, in essence, the same brief presented on appeal and seek reconsideration by generally alleging error in the prior decision. *Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006). Instead, the moving party must specify the factual and legal issues raised on appeal that were decided in error or overlooked in the initial decision or must show how a change in law materially affects the prior decision. *Id.* at 60.

The motion to reconsider does not allege that the issues, as raised on appeal, involved the application of precedent to a novel situation, or that there is new precedent or a change in law that affects the AAO's prior decision. Instead, the petitioner generally reiterates a prior argument. As noted above, a motion to reconsider must include specific allegations as to how the AAO erred as a matter of fact or law in its prior decision, and it must be supported by pertinent legal authority. Because the petitioner has failed to raise such allegations of error, the AAO will dismiss the motion to reconsider.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden.

ORDER: The motion to reconsider is dismissed, the decision of the AAO dated June 19, 2012, is affirmed, and the petition remains denied.