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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]

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Date: Office: CALIFORNIA SERVICE CENTER  
**JUL 30 2012**

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)

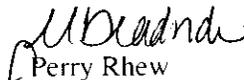
ON BEHALF OF PETITIONER:

[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 preference visa petition on February 25, 2010. The petitioner appealed the decision to the Administrative Appeals Office (AAO) on March 26, 2010. The AAO dismissed the appeal on January 24, 2012. The petitioner filed a subsequent appeal with the AAO on February 29, 2012. The petitioner's February 29, 2012 appeal will be rejected.

The petitioner is a church. It seeks to employ the beneficiary permanently in the United States pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3) as a minister of religion.

In her February 25, 2010 decision, the director determined that that the beneficiary had engaged in unauthorized employment and that the petitioner had failed to establish that the beneficiary worked continuously in a qualifying religious occupation or vocation for two full years immediately preceding the filing of the visa petition. The AAO dismissed the petitioner's appeal on January 24, 2012. On February 29, 2012, the petitioner appealed the AAO's January 24, 2012 decision rather than filing a motion to reopen or reconsider.

The petitioner's February 29, 2011 appeal must be rejected. The AAO does not exercise appellate jurisdiction over AAO decisions. The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). *See* DHS Delegation Number 0150.1; 8 C.F.R. § 103.3(a)(iv). Accordingly, the appeal is not properly before the AAO.

Therefore, as the appeal was not properly filed, it will be rejected. 8 C.F.R. §103.3(a)(2)(v)(A)(1).

In the alternative, the appeal will be rejected as 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 submit 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 submission, but the date of actual receipt with the required fee. *See* 8 C.F.R. § 103.2(a)(7)(i).

The record indicates that the AAO issued the decision on January 24, 2012. It is noted that the AAO properly gave notice to the petitioner that it had 33 days to file a motion. Neither the Act nor the pertinent regulations grant the AAO authority to extend this time limit.

Although counsel dated the Form I-290B February 22, 2012, it was not received by the service center until February 29, 2012, or 36 days after the decision was issued. Accordingly, the appeal was untimely filed.

As the appeal was untimely filed, the appeal must be rejected.

**ORDER:** The appeal is rejected.