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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

[REDACTED]

DATE: JUN 18 2012 OFFICE: CALIFORNIA SERVICE CENTER FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: 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)

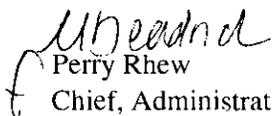
ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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 on July 12, 2011. Assembly of God Mission Ministry appealed the decision to the Administrative Appeals Office (AAO) on July 29, 2011. The AAO will reject the appeal and return the petition for further action by the director.

Part 1 of the Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant, filed with U.S. Citizenship and Immigration Services (USCIS) on March 23, 2009 indicates that [REDACTED] is the petitioner. Review of the petition, however, indicates that [REDACTED] signed the petition. An applicant or petitioner must sign his or her own application or petition. 8 C.F.R. § 103.2(a)(2). In this instance, in Part 10 of the petition, "Signature," no other official of [REDACTED] has signed the petition, but rather the alien himself. Therefore, [REDACTED] cannot be considered as having filed the petition on behalf of [REDACTED], and [REDACTED] shall be considered as the self-petitioner.

The regulation at 8 C.F.R. § 103.3(a)(1)(iii) states, in pertinent part:

(B) *Meaning of affected party.* For purposes of this section and §§ 103.4 and 103.5 of this part, *affected party* (in addition to the Service) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

The regulation at 8 C.F.R. § 103.3(a)(2)(v) states:

Improperly filed appeal – (A) Appeal filed by person or entity not entitled to file it – (1) Rejection without refund of filing fee. 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 the Service has accepted will not be refunded.

As indicated above, only an affected party may file an appeal of an unfavorable decision. [REDACTED] signed the Form I-290B, Notice of Appeal or Motion, on behalf of [REDACTED]. However, as previously stated, [REDACTED] is not the self-petitioner. The appeal has not been filed by the self-petitioner or by any entity with legal standing in the proceeding. Therefore, the appeal has not been properly filed and must be rejected.

The AAO notes that the director sent the notice of decision not to the self-petitioning alien, but to the church, presumably because the Form I-360 identified it as the petitioner. Thus, the director has never issued any relevant notices to the petitioner himself.

8 C.F.R. § 103.8(a)(1) defines "routine service" as mailing a copy by ordinary mail addressed to a person at his last known address. 8 C.F.R. § 103.5a(b) states that service by mail is complete upon mailing. Here, because the director never sent any denial notice to the self-petitioning alien, 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 self-petitioning alien chooses to appeal the director's decision, the AAO will duly consider statements from church officials, but as witness statements rather than as the petitioner's own arguments. Because there is, as yet, no valid appeal in the record, the AAO will not examine here the basis of the denial. 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 is not an affected party with legal standing in the proceeding. Therefore, the AAO must reject the appeal as improperly filed. The director must serve a newly dated copy of the decision, which is properly addressed to the true petitioner.

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