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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

JUN 19 2012

Office: CALIFORNIA SERVICE CENTER

FILE#



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:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. Please note that all documents have been returned to the office that originally decided your case. Please also note that any further inquiry 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,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, California Service Center (the director) and the Administrative Appeals Office (AAO) rejected a subsequently filed appeal. The matter is again before the AAO on a motion to reopen or reconsider. The motion will be dismissed.

The alien 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 church pastor. The director denied the petition and on January 2, 2008 the AAO rejected the appeal because it was filed by someone not entitled to file it. 8 C.F.R. § 103.3(a)(2)(v)(A)(1). On November 1, 2010, an attorney for beneficiary's employer ("the church") filed a motion for the AAO to reopen or reconsider its prior decision. The motion must be dismissed for two reasons.

First, the alien beneficiary is the petitioner, not the church. The Notice of Appeal or Motion (Form I-290B) was filed by an attorney on the church's behalf. However, the church is not an affected party in this proceeding and does not have legal standing to file a motion. 8 C.F.R. § 103.3(a)(1)(iii)(B).

Second, even if the motion had been filed by an affected party, it was not filed timely. An affected party has 30 days to file a motion. 8 C.F.R. § 103.5(a)(1)(i). If the decision was served by mail, an additional three days is added to the proscribed filing period. 8 C.F.R. § 103.8(b). Here, the AAO rejected the appeal on January 2, 2008 and the motion was filed more than two years later on November 1, 2010. There is no evidence that the delay in filing was reasonable and beyond the alien beneficiary's control. 8 C.F.R. § 103.5(a)(1)(i).

As the motion does not meet applicable requirements, it shall be dismissed. 8 C.F.R. § 103.5(a)(4).

**ORDER:** The appeal is dismissed.