

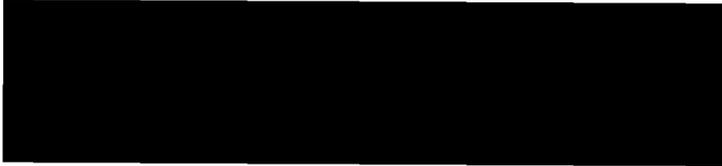
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



**U.S. Citizenship
and Immigration
Services**

PUBLIC COPY



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DATE: **MAR 13 2012** 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:

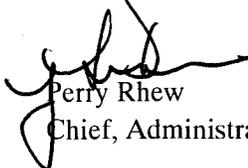
SELF-REPRESENTED

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.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must 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 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.

The petitioner is a Buddhist temple. 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 a monk. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous, qualifying work experience immediately preceding the filing date of the petition.

8 C.F.R. § 103.3(a)(1)(iii)(B) states that, for purposes of appeals, certifications, and reopening or reconsideration, "affected party" (in addition to U.S. Citizenship and Immigration Services (USCIS)) means the person or entity with legal standing in a proceeding. The USCIS regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(I) 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, USCIS will not refund any filing fee it has accepted.

Here, the party that filed the appeal was not the petitioner, but rather an attorney, [REDACTED]. Accompanying the I-290B Notice of Appeal was a G-28, Notice of Entry of Appearance as Attorney or Representative, authorizing [REDACTED] to represent the beneficiary, [REDACTED] on appeal. Because [REDACTED] did not file the petition, he is not an affected party, and therefore his attorney has no standing to file an appeal on the petitioner's behalf.

A previously submitted G-28 authorized [REDACTED] to represent the petitioner for the filing of the Form I-360 petition. However, the regulation at 8 C.F.R. § 292.4(a) requires that a new G-28 must be submitted on appeal to the AAO "to authorize representation in order for the appearance to be recognized by DHS." On February 15, 2012, the AAO faxed a letter to [REDACTED] which informed him of the regulation and stated:

The record, however, does not contain a new, properly executed Form G-28, signed by both you and by an authorized official of the petitioning entity. Therefore, we cannot consider you to be the petitioner's attorney of record. Without a new, valid and fully executed Form G-28, signed by an official of the petitioning entity authorizing you to represent the petitioner, we cannot consider the appeal to have been properly filed.

Pursuant to 8 C.F.R. §103.3(a)(v)(A)(2) and its subclauses, we hereby instruct you to submit a duly executed Form G-28 signed by yourself and by **an authorized official of the petitioning entity** within ten (10) calendar days of the date of this notice (emphasis in original). Failure to submit this required document will result in the rejection of the appeal as improperly filed.

The letter clearly identified the parties, referencing "petitioner [REDACTED] and beneficiary [REDACTED] In response, [REDACTED]

submitted a "new Form G-28, signed by the beneficiary/applicant, and

Pursuant to 8 C.F.R. § 292.4(a), the AAO cannot recognize as authorized to represent the petitioner on 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.

ORDER: The appeal is rejected.

¹ The AAO notes that the purported signature of the beneficiary on the new G-28 does not match the beneficiary's other signatures found in the record.