

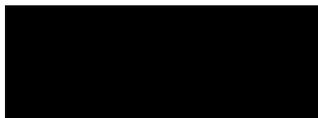
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PUBLIC COPY

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

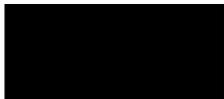


**U.S. Citizenship
and Immigration
Services**



C₁

DATE: **MAR 29 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:

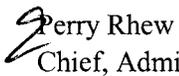
SELF-REPRESENTED

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.

Thank you,

A handwritten signature in cursive script, appearing to read "Perry Rhew".


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 and return the petition for further action by the director.

The 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 pastor of [REDACTED]. The director determined that the petitioner had not established that the beneficiary had the required two years of continuous, lawful, qualifying work experience immediately preceding the filing date of the petition.

Part 1 of the Form I-360 petition identifies both the beneficiary and the church as the petitioner. Review of the petition form, however, indicates that the alien beneficiary is the petitioner. An applicant or petitioner must sign his or her application or petition. 8 C.F.R. § 103.2(a)(2). In this instance, Part 10 of the Form I-360, "Signature," has been signed not by any official of the church, but by the beneficiary himself. Thus, the beneficiary, and not the church, has taken responsibility for the content 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 Citizenship and Immigration Services (USCIS)) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition. 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, any filing fee USCIS has accepted will not be refunded.

Here, the appeal was filed not by the petitioner, nor by anyone whom the record identifies as an attorney or accredited representative of the petitioner, but rather by the attorney for the church, which has no standing to file an appeal on the petitioner's behalf. The record contains no Form G-28, Notice of Entry of Appearance as Attorney or Representative, indicating that the attorney represents the self-petitioning beneficiary. The AAO must, therefore, reject the appeal as improperly filed.

The AAO notes, at the same time, that the director sent the notice of decision not to the self-petitioning beneficiary, but to the church. Thus, the director has never issued any relevant notices to the petitioner himself.

8 C.F.R. § 103.5a(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 addressed the notices to the church, rather than to the self-petitioning beneficiary himself, the director has arguably never served the notice of denial. Thus, the self-petitioning beneficiary 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 beneficiary chooses to appeal the director's decision, statements from church officials will be duly considered, albeit as witness statements rather than as the

petitioner's own assertions. Because there is, as yet, no valid appeal in the record, the AAO cannot examine, here, either the basis of the denial or the merits of the appeal submitted by the church's attorney. The AAO will duly consider those factors if and when the self-petitioning beneficiary files a proper and timely appeal.

The appeal has not been filed by the petitioner, or by any entity with legal standing in the proceeding, but rather by the attorney for the church. Therefore, the appeal has not been properly filed, and must be rejected. The director must serve a newly dated copy of the decision, properly addressed to the petitioner.

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