

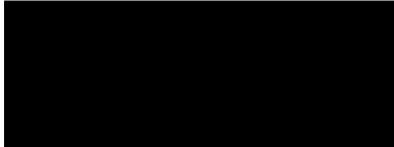
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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DATE: **MAY 23 2012** OFFICE: CALIFORNIA SERVICE CENTER

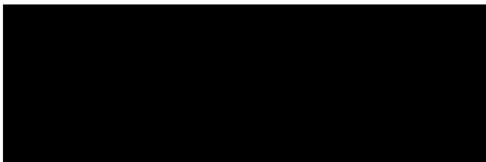


IN RE: Petitioner:
Beneficiary:



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:



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 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 Director, California Service Center, denied the employment-based immigrant visa petition. The petitioner appealed the decision to the Administrative Appeals Office (AAO). The AAO subsequently remanded the petition to the director for a new decision based on revised regulations, with instructions to certify any future denial to the AAO. The director denied the petition and certified the decision to the AAO. The AAO will affirm the director's decision.

The petitioner is a mosque. 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 Qur'anic and religious studies teacher. The director denied the petition based on the Department of State's revocation of the beneficiary's R-1 nonimmigrant visa. The AAO withdrew that finding, but found deficiencies in the petitioner's documentation of the beneficiary's compensation.

If the petitioner or applicant fails to respond to a request for evidence or to a notice of intent to deny by the required date, the application or petition may be summarily denied as abandoned. 8 C.F.R. § 103.2(b)(13).

On January 25, 2012, the director issued a notice of intent to deny the petition, and allowed the petitioner 30 days to respond. The record contains no response to the notice. The director, accordingly, denied the petition for abandonment, and certified the decision to the AAO in accordance with the AAO's instructions in the October 28, 2011 remand notice.

The director issued the certified denial on April 9, 2012. The U.S. Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 103.4(a)(2) permits the petitioner to submit a brief within 30 days after the director serves notice of a certified decision. The permitted response period has elapsed, and the AAO has received no response to the certified denial. The AAO therefore considers the record to be complete as it now stands.

There is no evidence that the petitioner submitted a timely response to the notice of intent to deny the petition, and therefore the director properly denied the petition for abandonment. The petitioner has not filed a timely response to this denial on certification. The AAO will therefore affirm the director's certified denial of the petition.

The AAO notes that the USCIS regulations limit the circumstances under which a petitioner may file a motion to reopen a petition denied for abandonment. Under the USCIS regulation at 8 C.F.R. § 103.5(a)(2), a motion to reopen an application or petition denied due to abandonment must be filed with evidence that the decision was in error because:

- (i) The requested evidence was not material to the issue of eligibility;
- (ii) The required initial evidence was submitted with the application or petition, or the request for initial evidence or additional information or appearance was complied with during the allotted period; or

(iii) The request for additional information or appearance was sent to an address other than that on the application, petition, or notice of representation, or that the applicant or petitioner advised the Service, in writing, of a change of address or change of representation subsequent to filing and before the Service's request was sent, and the request did not go to the new address.

ORDER: The director's decision of April 9, 2012 is affirmed. The petition is denied for abandonment.