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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**

[Redacted]

C1

Date: **SEP 13 2012** Office: CALIFORNIA SERVICE CENTER FILE: [Redacted]

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

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)

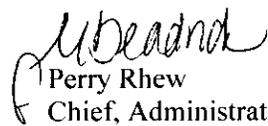
ON BEHALF OF PETITIONER:

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,

  
Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, denied the employment-based immigrant visa petition. The petitioner filed a subsequent appeal. The Administrative Appeals Office (AAO) dismissed the appeal. The matter is now before the AAO on a motion to reopen and a motion to reconsider. The motions will be dismissed.

The petitioner is a Pentecostal church. 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 director of religious teaching and church education department. The director determined that the petitioner failed to establish that the beneficiary had the requisite two years of continuous, lawful, qualifying work experience immediately preceding the filing of the petition. The AAO dismissed a subsequent appeal, affirming the director's finding and additionally finding that the petitioner failed to establish its ability to compensate the beneficiary.

The petitioner has now filed motions seeking to reopen and reconsider the appeal.

In order to properly file a motion, the regulation at 8 C.F.R. § 103.5(a)(1)(i) provides that the affected party or the attorney or representative of record must file the motion within 30 days of service of the unfavorable decision. If the decision was mailed, the appeal must be filed within 33 days. *See* 8 C.F.R. § 103.8(b). The date of filing is not the date of submission, but the date of actual receipt with the required fee. *See* 8 C.F.R. § 103.2(a)(7)(i).

The record indicates that the AAO issued its decision on February 23, 2012. It is noted that the AAO gave notice to the petitioner that it had 30 days to file a motion to reconsider or a motion to reopen, and that the specific requirements could be found at 8 C.F.R. § 103.5. The notice further advised that the record was being returned to the office that made the original decision and that “[a]ll 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.”

The petitioner dated the appeal March 19, 2012. However, despite the clear instructions in the AAO's notice and on the Form I-290B, the petitioner sent the motions to the AAO. On March 23, 2012, the AAO returned the motions as improperly filed with the wrong office. The motions were received *by the director* on March 28, 2012, or 34 days after the decision was issued. Accordingly, the motions were untimely filed.

**ORDER:** The motions are dismissed.