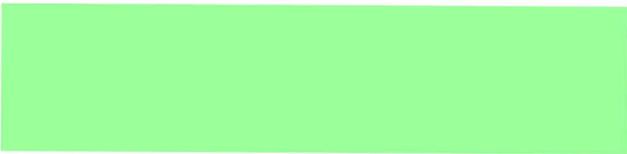




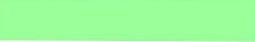
U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **APR 30 2013**

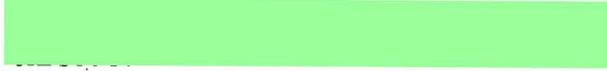
Office: CALIFORNIA SERVICE CENTER

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:

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,

Ron Rosenberg

Acting 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 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 senior pastor. The director determined that the petitioner had not established that it qualifies as a bona fide non-profit religious organization in the United States.

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.

The regulation at 8 C.F.R. § 292.4(a) requires that a new, fully executed 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 12, 2013, the AAO faxed a letter to [REDACTED] which informed him of the regulation and stated:

You signed the Form I-290B as the petitioner's attorney. The record, however, does not contain a new and properly executed Form G-28, Notice of Entry of Appearance as Attorney or Representative, signed by both you and **the petitioner**. The Form G-28 submitted on appeal is signed by the beneficiary, [REDACTED].

Without a new, fully executed Form G-28 authorizing you to represent the petitioner, the AAO cannot consider the appeal to have been properly filed. As required by 8 C.F.R. § 103.3(a)(2)(v)(A)(2) and its subclauses, you must submit a duly executed Form G-28 signed by you and the petitioner within **fifteen (15) calendar days** of the date of this notice. Failure to submit this required document will result in the rejection of the appeal as improperly filed, under the regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

(Emphasis in original). The letter clearly identified the parties, referencing "petitioner: [REDACTED] and the beneficiary: [REDACTED]. In response, [REDACTED] submitted a new Form G-28, again signed by the beneficiary, [REDACTED].

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[REDACTED] (b)(6)

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Pursuant to 8 C.F.R. § 292.4(a), the AAO cannot recognize [REDACTED] 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.