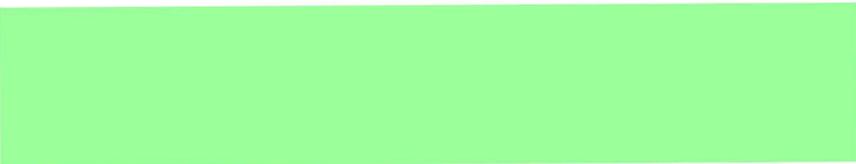




U.S. Citizenship  
and Immigration  
Services

(b)(6)



Date:

Office: CALIFORNIA SERVICE CENTER

FILE:

**MAY 14 2013**

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 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 in accordance with the instructions on 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,

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 appeal will be summarily dismissed or, in the alternative, rejected.

The petitioner is a missionary organization. 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 missionary. The director determined that the petitioner failed to establish that it qualifies as a bona fide non-profit religious organization and its ability to compensate the beneficiary. The director additionally 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 and that he will be employed in a qualifying religious occupation.

On the Form I-290B, Notice of Appeal, the petitioner indicated that a brief and/or additional evidence would be forthcoming within thirty days. To date, careful review of the record reveals no subsequent submission. Therefore, the appeal form itself appears to constitute the entire appeal. In Part 3 of the form, "Basis for the Appeal or Motion," the petitioner states only "APPEAL" without any statement regarding any erroneous conclusion of law or fact in the decision being appealed.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) provides that "[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal." The petitioner has not specifically addressed the reasons stated for denial and offers no substantive basis for the filing of the appeal. As the petitioner failed to provide any specific statement or argument regarding the basis of his appeal, the appeal must be summarily dismissed.

Additionally, the AAO notes that the appeal was untimely filed. In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) and the instructions for the Form I-290B, Notice of Appeal provide that the affected party or the attorney or representative of record must submit the complete appeal 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 regulation at 8 C.F.R. § 103.2(a)(1) provides that "[e]very application, petition, appeal, motion, request, or other document submitted on any form prescribed . . . must be filed with the location and executed in accordance with the instructions on the form, such instructions being hereby incorporated into the particular section of the regulations . . . requiring its submission." The regulation at 8 C.F.R. § 1.2 defines "form instructions" as "instructions on how to complete and where to file a benefit request, supporting evidence or fees, or any other required or preferred document or instrument with a DHS immigration component." The date of filing is not the date of submission, but the date of actual receipt at the location designated for filing with the correct fee. *See* 8 C.F.R. § 103.2(a)(7)(i). If submitted without the proper fee, the filing will be rejected. *Id.*

The record indicates that the service center director issued the decision on November 14, 2012. It is noted that the service center director gave notice to the petitioner that it had 30 days to file

the appeal and that “[a] fee of \$630 is required.” Neither the Act nor the pertinent regulations grant the AAO authority to extend this time limit.

The petitioner initially submitted the Form I-290B, Notice of Appeal, on December 19, 2012, along with a Form I-912, Request for Fee Waiver. United States Citizenship and Immigration Services (USCIS) rejected the form, stating that “[t]he check amount is incorrect or has not been provided” and because the petitioner “did not provide supporting documentation to support” the fee waiver request. The petitioner subsequently resubmitted the Form I-290B with the correct filing fee and it was received by USCIS on January 25, 2013, or 72 days after the decision was issued. Accordingly, in the alternative, the appeal would be rejected as untimely filed.

**ORDER:** The appeal is dismissed.