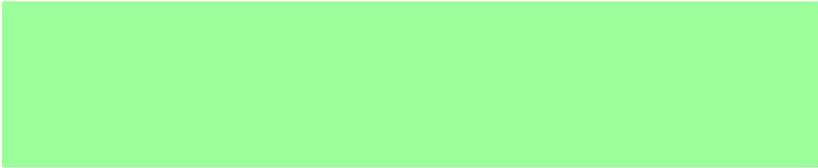


(b)(6)

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

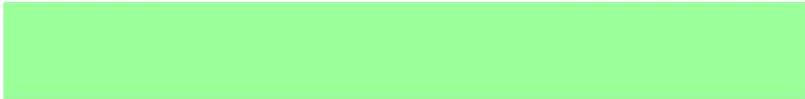


DATE: NOV 29 2013

Office: CALIFORNIA SERVICE CENTER

FILE: [REDACTED]

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 (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

A handwritten signature in cursive script, appearing to read "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, denied the employment-based immigrant visa petition. The Administrative Appeals Office (AAO) rejected a subsequent appeal as improperly filed. The matter is now again before the AAO on appeal. The appeal will be rejected.

The petitioner is a synagogue. 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 cantor. The director determined that the petitioner did not exist as indicated on the petition and failed to establish that it had extended a qualifying job offer to the beneficiary.

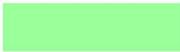
The director denied the petition on April 25, 2009. On May 26, 2009, the beneficiary filed a Form I-290B, Notice of Appeal or Motion. The AAO found that the beneficiary was not an affected party under 8 C.F.R. § 103.3(a)(1)(iii), and therefore lacked standing to file an appeal. Accordingly, the AAO rejected the appeal as improperly filed in accordance with 8 C.F.R. § 103.3(a)(2)(v)(A)(I). The AAO sent its decision to the petitioner's address of record which, to date, remains the same.

On August 15, 2012, the petitioner filed the instant appeal. On the Form I-290B submitted on May 8, 2012, the petitioner checked Box A, which states: "I am filing an appeal. My brief and/or additional evidence is attached."

The AAO does not exercise appellate jurisdiction over its own decisions. The AAO exercises appellate jurisdiction over only the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). See DHS Delegation Number 0150.1 (effective March 1, 2003). An appeal of an AAO appeal is not properly within the AAO's jurisdiction.

In its rejection of the previously filed appeal, the AAO indicated that the petitioner "may file a motion to reconsider or a motion to reopen," but did not state or imply that the petitioner could appeal that decision. The USCIS regulation at 8 C.F.R. § 103.5(a) permits the petitioner to file a motion based on an AAO decision, but the petitioner instead filed an appeal. There is no comparable provision to allow an appeal.

Additionally, in order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides 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 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). Neither the Act nor the pertinent regulations grant the AAO authority to extend this time limit.



The AAO rejected the previous appeal on March 13, 2012. The petitioner filed the instant Form I-290B, 155 days after the decision was issued.<sup>1</sup> Accordingly, the appeal is untimely filed.

Because no statutory or regulatory provision exists to allow the petitioner to appeal an AAO decision to the AAO, the appeal must be rejected.

**ORDER:** The appeal is rejected.

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<sup>1</sup> The AAO's March 13, 2012 rejection of the previous appeal is the most recent procedural action in this matter. However, on the instant Form I-290B, the petitioner indicates that it seeks to appeal the director's April 25, 2009 decision denying the petition. To the extent that the appeal relates to the director's decision, the appeal was filed 1,208 days after the decision was issued and is therefore untimely filed.