



U.S. Citizenship
and Immigration
Services

(b)(6)

[Redacted]

DATE: **AUG 21 2014** 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 (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. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,

B. F. Hyles
for Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the employment-based immigrant visa petition. The petitioner filed a motion to reconsider, which the director dismissed. The petitioner filed an untimely appeal, which the director treated as a motion under the U.S. Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2). The director again denied the petition, and the petitioner appealed the decision to us at the Administrative Appeals Office. We remanded the petition for a new decision. The director again denied the petition and certified the decision to us for review. We affirmed the director's decision. The matter is now before us on a motion to reconsider. We will dismiss the motion.

The petitioner is an Islamic school. When it filed Form I-360, Petition for Amerasian, Widow, or Special Immigrant on January 19, 2007, the petitioner sought 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 teacher. The director determined that the petitioner had not established that the beneficiary had the required two years of continuous, qualifying work experience immediately preceding the filing date of the petition. We affirmed this finding.

Attorney [REDACTED] filed the present motion on January 12, 2012, stating that he was acting on behalf of the petitioning school. The record does not include a new Form G-28, Notice of Entry of Appearance as Attorney or Representative, showing that he still represented the school. Instead, the motion included a photocopy of a Form G-28 from 2006, signed by Dr. [REDACTED] who was chairman of the petitioner's education board in 2006 but who no longer holds that position.

On February 6, 2013, while the motion was pending, a USCIS investigator visited the petitioning school to conduct an on-site inspection as described in the USCIS regulation at 8 C.F.R. § 204.5(m)(12). The investigator reported: "The petitioning organization no longer wants to extend or offer . . . employment to the beneficiary." In a letter dated November 7, 2010, [REDACTED] then chairman of the petitioner's board, notified the beneficiary that "after May 31st, 2011, your contract would not be renewed, irrespective of your immigration status." A copy of the beneficiary's employment contract, signed by Mr. [REDACTED] and by the beneficiary and dated December 19, 2010, likewise stated that the "contract would end on June 1st, 2011 and her contract would not be renewed."

In a notice dated June 27, 2014, we asked the petitioner to (1) explain whether it still intended to employ the beneficiary, and (2) submit a new Form G-28, signed by a current, authorized official of the school, authorizing Mr. [REDACTED] to represent the petitioner. We clarified that "the lack of a current job offer will be grounds for dismissal of the motion and denial of the petition."

[REDACTED] the current chairman of the petitioner's board, responded in a letter dated July 19, 2014. He stated: "The [petitioning school] does not currently employ [the beneficiary], nor has any offer of employment been extended, nor do we have any plans to extend such an offer at this time."

Section 101(a)(27)(C)(ii)(III) of the Act, 8 U.S.C. § 1101(a)(27)(C)(ii)(III), requires a job offer from a qualifying religious organization or affiliated organization. The USCIS regulation at 8 C.F.R. § 204.5(m)(2)(ii) repeats this requirement. A current, valid job offer is integral to the immigrant

classification. The regulation at 8 C.F.R. § 204.5(m)(7) requires the prospective employer to attest to various details of the employment offer. As we advised the petitioner in our June 27, 2014 notice, the petition cannot properly be approved if there is no offer of employment. Because we cannot properly approve the petition, a discussion of the substance of the January 12, 2012 motion would be moot.

Mr. [REDACTED] further stated: “Regarding Mr. [REDACTED] it is our understanding that he represents [the beneficiary], and that he DOES NOT represent the [petitioning school].” Form I-290B, Notice of Appeal or Motion, must be signed by the affected party or its attorney of record. *See* 8 C.F.R. § 103.5(a)(1)(iii)(A). The beneficiary is not an affected party. *See* 8 C.F.R. § 103.3(a)(1)(iii)(B). Mr. [REDACTED] claimed to have filed the motion on behalf of the petitioning school, but the record does not support this claim. If Mr. [REDACTED] does not represent the school, then he had no standing to file the motion, and the motion was not properly filed. A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

The motion was not properly filed, and the lack of a current job offer means that USCIS cannot properly approve the petition. We will dismiss the motion for these reasons, with each considered as an independent and alternate basis for the dismissal.

ORDER: The motion is dismissed.