



U.S. Citizenship  
and Immigration  
Services

(b)(6)

DATE: **MAR 07 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:

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,

  
Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, denied the employment-based immigrant visa petition. The petitioner appealed the decision to the Administrative Appeals Office (AAO), which rejected the appeal as untimely. The petitioner filed a motion to reopen the decision, which the director dismissed. The petitioner filed a new appeal, which the AAO dismissed on the merits. The petitioner filed a motion to reopen, which the director dismissed. Because the director had no authority to dismiss a motion to the AAO, the AAO moved to reopen the proceeding. The AAO will now sustain the appeal and approve the petition.

The petitioner is an independent Baptist church. It filed the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, on November 4, 2010, seeking 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 an assistant pastor. The director determined that the petitioner had failed to establish that the beneficiary was in lawful immigration status during the two years immediately preceding the petition's filing date, as required by the U.S. Citizenship and Immigration Services (USCIS) regulations at 8 C.F.R. §§ 204.5(m)(4) and (11).

In a separate proceeding, the petitioner had filed Form I-129, Petition for a Nonimmigrant Worker, on December 10, 2008. The denial of that petition left the beneficiary without lawful nonimmigrant status from January 1, 2009 (the day after his previous R-1 nonimmigrant status expired) onward. On January 29, 2014, the AAO reopened and approved the nonimmigrant petition. The director subsequently issued a Form I-797A, Notice of Action, conveying R-1 nonimmigrant status on the beneficiary from January 1, 2009 through December 31, 2010.

As a result of the director's action, USCIS has granted the beneficiary qualifying nonimmigrant status for the entire two-year period immediately preceding the Form I-360 petition's November 4, 2010 filing date. This action supersedes and overcomes the sole stated basis for denial of the petition. Accordingly, the AAO will approve the petition.

**ORDER:** The appeal is sustained and the petition is approved.