



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF Z-C-C-

DATE: FEB. 24, 2016

MOTION ON ADMINISTRATIVE APPEALS OFFICE DECISION

PETITION: FORM I-360, PETITION FOR AMERASIAN, WIDOW(ER), OR SPECIAL IMMIGRANT

The Petitioner seeks classification as a special immigrant religious worker to perform services as a pastor. *See* Immigration and Nationality Act (the Act) § 203(b)(4), 8 U.S.C. § 1153(b)(4). This classification allows non-profit religious organizations, or their affiliates, to employ foreign nationals as ministers or in other religious occupations or vocations in the United States.

The Director, California Service Center, denied the petition, concluding that the Petitioner did not establish that his prospective employer, “the church,” is a bona fide nonprofit religious organization. We rejected a subsequent appeal as untimely filed. The matter is now before us on a motion to reopen.

Upon *de novo* review, we will deny the motion.

The Director denied the Form I-360, Petition for Special Immigrant, on January 30, 2015. The church filed the appeal on March 6, 2015, 35 days after the decision was issued. We rejected the appeal as untimely filed. In the instant motion to reopen, the church states that its appeal was “promptly mailed . . . well before the 33 day deadline of March 4th.” According to the church, “[t]he only delay . . . was the fact that the filing fee had to be collected by members of Beneficiary’s small congregation . . . .”

As we explained in our previous decision, neither the Act nor the pertinent regulations grant us authority to extend the time limit to file an appeal. As we rejected the appeal, there is no decision that may be reopened. According to 8 C.F.R. § 103.5(a)(1)(ii), jurisdiction over a motion resides with the official who made the latest decision in the proceeding. Because the most recent decision was rendered by the Director, we have no jurisdiction over this motion, and the motion must be denied.

Furthermore, we note that the appeal and the motion were filed by the church and not the Petitioner. Although Part 1 of the Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, identified the church as the Petitioner, the foreign national signed the petition in Part 10, “Signature.” Thus, the foreign national, and not the church, is the Petitioner and has taken responsibility for the content of the petition. *See* 8 C.F.R. § 103.2(a)(2).

(b)(6)

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The regulation defines an “affected party” as the person or entity with legal standing in a proceeding. *See* 8 C.F.R. § 103.3(a)(1)(iii)(B). An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. *See* 8 C.F.R. § 103.3(a)(2)(v). In such a case, any filing fee U.S. Citizenship and Immigration Services (USCIS) has accepted will not be refunded. *Id.*

Here, the appeal and the motion currently before us were not filed by the Petitioner or any attorney or accredited representative on behalf of the Petitioner. Rather, the appeal and motion were filed by [REDACTED] on behalf of the church, which has no standing to file an appeal or motion on the Petitioner’s behalf. Therefore, the appeal and motion have been improperly filed.

At the same time, however, we note that our previous rejection of the appeal and the Director’s decision were erroneously sent to the church instead of to the Petitioner. Accordingly, we have reopened the matter on our own motion pursuant to 8 C.F.R. § 103.5(5) to provide proper notice to the Petitioner.

**ORDER:** The motion to reopen is denied.

Cite as *Matter of Z-C-C-*, ID# 15356 (AAO Feb. 24, 2016)