

Identify the reasons used to
prevent clearly unwarranted
invasion of personal privacy

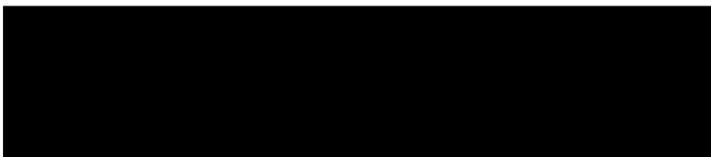
U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
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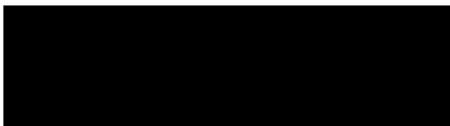
FILE: WAC 07 202 51564 Office: CALIFORNIA SERVICE CENTER Date: FEB 23 2010

IN RE: Petitioner:
Beneficiary:



PETITION: Nonimmigrant Petition for Religious Worker Pursuant to Section 101(a)(15)(R)(1) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(R)(1)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the employment-based nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will reject the appeal.

The petitioner is identified as a church of the Seventh-day Adventist denomination. It seeks to change the beneficiary's nonimmigrant status from B-2 visitor to R-1 religious worker under section 101(a)(15)(R)(1) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(R)(1), to perform services as a personal ministry director. The director determined that the petitioner had not established its status as a tax-exempt non-profit religious organization, and that the beneficiary's violation of his prior B-2 status made him ineligible to change status. We note that the second finding is not subject to appellate review. *See* the U.S. Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 248.3(g).

If an appeal is filed by an attorney or representative without a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) entitling that person to file the appeal, the appeal is considered improperly filed. In such a case, any filing fee the Service has accepted will not be refunded regardless of the action taken. 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(i). In this instance, [REDACTED] filed the Form I-290B Notice of Appeal without a properly executed Form G-28.

8 C.F.R. §§ 103.3(a)(2)(v)(A)(2)(ii) and (iii) indicate that, if an appeal is otherwise properly filed, USCIS may instruct the attorney who filed the appeal to submit a properly executed Form G-28. If the form is timely submitted, then USCIS will consider the appeal to be properly filed.

On December 29, 2009, the AAO notified [REDACTED] that the AAO would reject the appeal unless he submitted the required form. To date, more than a month later, the record contains no response from [REDACTED]. Therefore, we must reject the appeal as improperly filed.

We serve this notice to the petitioner and its last known attorney of record as required by the USCIS regulation at 8 C.F.R. § 103.3(a)(2)(x).

ORDER: The appeal is rejected.