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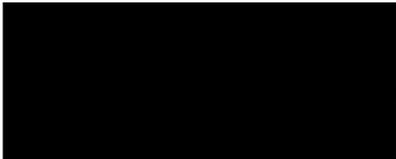
**PUBLIC COPY**

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



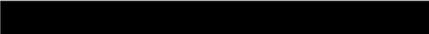
U.S. Citizenship  
and Immigration  
Services

D13



Date: AUG 22 2011

Office:



FILE:



IN RE:

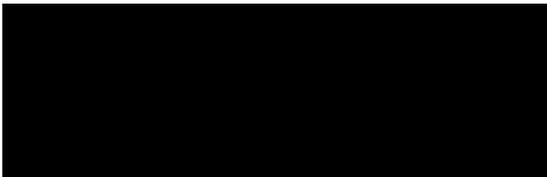
Petitioner:

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, [REDACTED] Service Center, denied the employment-based nonimmigrant visa petition. In response to a subsequent appeal, the director reopened the matter on service motion and again denied the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The Form I-129, Petition for a Nonimmigrant Worker, filed on May 28, 2008, identifies the [REDACTED] Foundation as the petitioner and is signed by [REDACTED] did not indicate his position with the organization. In response to the director's request for evidence (RFE) of November 12, 2008, the petitioner stated that [REDACTED] was its attorney. [REDACTED] Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, purportedly authorizing [REDACTED] to act on behalf of the petitioner, is not signed by an official of any religious organization and indicates that [REDACTED] is recognized by the Board of Immigration Appeals as an accredited representative of the [REDACTED] Foundation. [REDACTED] is not, however, recognized by the Board of Immigration Appeals as an authorized or accredited representative pursuant to 8 C.F.R. § 292.1(a).

[REDACTED] who signed the initial Form I-290B appeal in this matter, provides an affidavit in which he states that he "was the petitioner's representative in this matter. I was not, and have never been, an employee of the petitioner."

The regulation in effect at the time the petition was filed, 8 C.F.R. § 214.2(r)(5), provided:

*Extension of stay.* The organizational unit of the religious organization employing the nonimmigrant religious worker admitted under this section shall use Form I-129 . . . , along with the appropriate fee, to extend the stay of the worker.

Additionally, the regulation at 8 C.F.R. § 214.2(r)(6) in effect at the time the petition was filed provided:

*Change of employers.* A different or additional organizational unit of the religious denomination seeking to employ or engage the services of a religious worker admitted under this section shall file Form I-129 with the appropriate fee.

Further, the regulation at 8 C.F.R. § 103.2(a)(2) provides, in pertinent part:

*Signature.* An applicant or petitioner must sign his or her application or petition. . . . By signing the application or petition, the applicant or petitioner . . . certifies under penalty of perjury that the application or petition, and all evidence submitted with it, either at the time of filing or thereafter, is true and correct.

[REDACTED] admits that he was not, and has never been, in the employ of the petitioning organization. Therefore, he was not an authorized official of the organization seeking to employ the beneficiary. [REDACTED] is also not an accredited representative of the organization seeking to employ the beneficiary. As [REDACTED] is not an employee or representative of an employer in the

United States seeking to employ a religious worker, he was not eligible to file the Form I-129 in this matter.

The regulation at 8 C.F.R. § 103.3(a)(1)(iii) states, in pertinent part:

*(B) Meaning of affected party.* For purposes of this section and §§ 103.4 and 103.5 of this part, *affected party* (in addition to the Service) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

The regulation at 8 C.F.R. § 103.3(a)(2)(v) states:

*Improperly filed appeal – (A) Appeal filed by person or entity not entitled to file it – (1) Rejection without refund of filing fee.* An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

Only an affected party, a person or entity with legal standing, may file an appeal of an unfavorable decision. The petition has not been signed by an authorized official of the prospective employer and therefore has not been properly filed. Therefore, the petition should have been rejected by the director. The initial appeal was not filed by a proper petitioner or by any entity with legal standing in the proceeding. Therefore that appeal was not properly filed and should have been rejected by the director. Although the appeal currently before the AAO was properly filed, the deficiencies in this proceeding can be overcome only by the filing of a new petition by an affected party in accordance with the instructions on the form.

**ORDER:** The appeal is rejected.