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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**

[Redacted]

813

Date: **APR 09 2012** Office: CALIFORNIA SERVICE CENTER FILE: [Redacted]

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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

ON BEHALF OF PETITIONER:

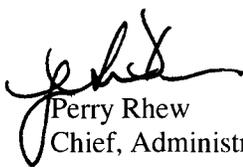
[Redacted]

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, California Service Center, denied the nonimmigrant visa petition. The Administrative Appeals Office (AAO) dismissed a subsequent appeal and a motion to reopen. The matter is now before the AAO on a second appeal. The appeal will be rejected.

The petitioner is a church. It seeks to extend the beneficiary's status as a nonimmigrant 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 minister. The director determined that the beneficiary was statutorily ineligible for continued classification as an R-1 nonimmigrant religious worker. The director therefore denied the petition on August 5, 2010. The AAO dismissed the petitioner's appeal on December 28, 2010 and dismissed the petitioner's motion to reopen on November 3, 2011. On December 29, 2011, the petitioner appealed the AAO's dismissal of the motion.

The petitioner's appeal must be rejected. The AAO does not exercise appellate jurisdiction over AAO decisions. The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). *See* DHS Delegation Number 0150.1; 8 C.F.R. § 103.3(a)(iv). Accordingly, the appeal is not properly before the AAO.

Therefore, as the appeal was not properly filed, it will be rejected. 8 C.F.R. §103.3(a)(2)(v)(A)(I).

It should be noted that the petitioner had the option of filing a motion to reopen or a motion to reconsider the AAO's most recent decision within 33 days of service pursuant to 8 C.F.R. § 103.5. However, the Form I-290B, Notice of Appeal or Motion, did not indicate an intent to file a motion.

The AAO notes that the Form I-290B was also filed untimely. Under the provisions of 8 C.F.R. §103.3(a)(2)(i) and 8 C.F.R. § 103.5(a)(1)(i), an appeal or a motion to reopen or reconsider must be filed within 30 days after service of the unfavorable decision. The regulation at 8 C.F.R. § 103.5a(b) states that whenever a person is required to act within a prescribed period after the service of a notice upon him and the notice is served by mail, three days shall be added to the prescribed period. The AAO issued its decision on November 11, 2011. The service center received the petitioner's Form I-290B on December 29, 2011, 56 days after the AAO issued its decision.

ORDER: The appeal is rejected as not properly filed.