

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



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Date: **OCT 15 2012** Office: CALIFORNIA SERVICE CENTER 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:

SELF-REPRESENTED

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.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the nonimmigrant visa 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 with the U.S. Citizenship and Immigration Services (USCIS) on January 3, 2012, indicates that [REDACTED] is the petitioner. However, the Form I-129 was signed by the alien. The director denied the petition finding that because the alien signed the petition, the record did not establish that he sought to enter the United States to work for a petitioning organization.

[REDACTED] who submitted a Form G-28, Notice of Entry of Appearance as Attorney or Representative, as attorney for the prospective employer, signed the Form I-290B, Notice of Appeal or Action, in which she asserts, "This denial is based solely on a false statement by CIS, namely the false allegation that beneficiary is petitioning for himself." Counsel submits additional documentation on appeal.

Section 101(a)(15)(R) of the Act pertains to an alien who:

- (i) for the 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States; and
- (ii) seeks to enter the United States for a period not to exceed 5 years to perform the work described in subclause (I), (II), or (III) of paragraph (27)(C)(ii).

Section 101(a)(27)(C)(ii) of the Act, 8 U.S.C. § 1101(a)(27)(C)(ii), pertains to a nonimmigrant who seeks to enter the United States:

- (I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,
- (II) . . . in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or
- (III) . . . in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation.

The regulation at 8 C.F.R. § 214.2(r)(7) provides:

Jurisdiction and procedures for obtaining R-1 status. An employer in the United States seeking to employ a religious worker, by initial petition or by change of status, shall file a petition in accordance with the applicable form instructions.

Moreover, When USCIS promulgated the rule setting forth new regulations for special immigrant religious worker petitions on November 26, 2008, supplementary information for the final rule stated:

A nonimmigrant alien seeking R-1 status cannot self-petition, but must have an employer submit a petition (Form I-129) on his or her behalf. 8 CFR 214.2(r)(7). By implementing the petition requirement, USCIS seeks to preserve the integrity of the program at the outset by denying the petition for fraud or other ineligibility factors. It also allows both USCIS and the petitioning religious employer to respond to derogatory information revealed by on-site inspections before the petition is denied. 73 Fed. Reg. 72276, 72277 (Nov. 26, 2008).

An applicant or petitioner must sign his or her benefit request. 8 C.F.R. § 103.2(a)(2). In this instance, Part 7 of the Form I-129, "Signature," has not been signed by an authorized representative of the prospective employer but by the alien himself. The alien also signed the attestation required by the regulation at 8 C.F.R. § 214.2(r)(8). Thus, the alien, and not the prospective employer, has taken responsibility for the content of the petition. Because there is no provision for an alien to file an R-1 nonimmigrant petition on his or her behalf, the petition has not been properly filed and no valid proceeding can arise from that petition.

Counsel asserts, "As the only member of the clergy in that congregation, it is not improper for [the alien] to sign the I-129R." Nonetheless, the regulation does not specify that the petition must be signed by any specific individual on behalf of an organization. Any authorized official other than the proposed beneficiary of the petition can sign a petition on behalf of the prospective employer. For example, documentation submitted on appeal reveals that the organization has a board of directors, one of whom signed the Form G-28 submitted on appeal. Counsel does not assert that the board of directors lacks the authority to file the petition on behalf of [REDACTED], the prospective employer.

Counsel submits a statement from the board stating that the petitioner is currently employed with the organization. However, as discussed above, an alien's employment status does not render him eligible to sign the petition, as the regulation does not permit an alien seeking R-1 status to self-petition.

Because the alien signed the Form I-129 petition, the petition has not been properly filed in accordance with the regulation. Under the regulation at 8 C.F.R. § 103.2(a)(7)(i), a petition is not properly filed until USCIS receives the properly filed petition form. A petition that does not meet filing requirements shall be rejected as improperly filed. *Id.*

As it relates to the filing of the instant appeal, counsel for [REDACTED] signed the Form I-290B. Because [REDACTED] is not the petitioner in this proceeding and it has no standing to appeal the denial of the petition. *See* 8 C.F.R. § 103.3(a)(2)(i). Therefore, neither the petition nor the appeal has been filed by a party with standing to make such a filing. The regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(I) states that 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 USCIS has accepted will not be refunded.

Because the appeal has not been filed by the petitioner, or by any entity with legal standing in the proceeding, the AAO must reject the appeal as improperly filed.

ORDER: The appeal is rejected.