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U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[redacted]

File: [redacted] Office: Vermont Service Center Date: 24 APR 2002

IN RE: Petitioner: [redacted]
Beneficiary: [redacted]

Petition: Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the "Act"), 8 U.S.C. 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. 1101(a)(27)(C)

IN BEHALF OF PETITIONER: [redacted]

INSTRUCTIONS:
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Director, Vermont Service Center. An appeal was dismissed by the Associate Commissioner for Examinations. The matter is again before the Associate Commissioner on a motion to reopen/reconsider. The motion will be rejected.

The petitioner is described as a church. It seeks classification of the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the "Act"), 8 U.S.C. 1153(b)(4).

The petition was filed on October 22, 1997. In a decision dated June 15, 1998, the center director denied the petition finding that the beneficiary's claimed volunteer work at the church was insufficient to satisfy the requirement of 8 C.F.R. 204.5(m)(1) requiring at least two years of continuous experience in a qualifying religious occupation.

The petitioner filed a timely appeal. The Associate Commissioner, by and through the Director, Administrative Appeals Office ("AAO"), dismissed the appeal on November 23, 1999, affirming the center director's decision.

The record contains a letter from the beneficiary inquiring about the status of her "motion." The beneficiary explained that she retained new counsel to file the motion and that the delay in processing her visa petition has placed a hardship on her child care business. The letter is fee processed as a motion filed on September 4, 2001.

Any motion to reopen or reconsider must be filed by the petitioner within 30 days of the decision that the motion seeks to reopen or reconsider. 8 C.F.R. 103.5(a)(1)(i).

On review, the record contains no indication that a timely motion was properly filed to the appellate decision of November 23, 1999. A motion filed September 4, 2001, is clearly untimely filed. Nor do the beneficiary's statements address the grounds for dismissal of the appeal. Accordingly, even if the motion were timely filed, it would fail to satisfy the requirements for a motion to reopen or reconsider. See 8 C.F.R. 103.5(a)(4). Therefore, the instant motion filed September 4, 2001, must be rejected.

ORDER: The motion is rejected.