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**U.S. Department of Justice**

Immigration and Naturalization Service

identification data deleted to prevent clearly unwarranted invasion of personal privacy

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

[redacted]

File: [redacted] Office: Nebraska Service Center Date: 28 FEB 2002

IN RE: Petitioner: [redacted]
Beneficiary:

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]

Public Copy

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

Myra L. Rosenberg

for Robert P. Wiemann, Director
Administrative Appeals Office

**DISCUSSION:** The approval of the immigrant visa petition was revoked by the Director, Nebraska Service Center. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be rejected.

The petitioner is described as a church that 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), in order to employ him as head of its music ministry.

The Form I-360 visa petition was filed on June 11, 1997, and approved on July 31, 1997. At the subsequent visa interviews at the United States Consulate, Manila, Philippines on March 2 and March 20, 1998, the beneficiary revealed that he had not been continuously engaged in a religious occupation for at least the two years preceding the filing of the petition as asserted in the evidence furnished to support the petition.

The center director then properly issued a Notice of Intent to Revoke approval of the visa petition dated March 21, 2000. After consideration of the petitioner's response to the notice of intent, the director concluded that the grounds of ineligibility had not been overcome and revoked the petition in a decision dated August 21, 2000. The director advised the petitioner that an appeal may be filed within fifteen days.

Counsel for the petitioner filed an untimely appeal on September 15, 2000. Counsel indicated that a written brief would be submitted within thirty days on or before October 12, 2000. As of this date, no brief has been received.

According to 8 C.F.R. 205.2(d), a petitioner may appeal the decision to revoke approval within <u>15 days</u> after service of the notice of revocation. The appeal was untimely filed.

8 C.F.R. 103.3(a)(2)(v)(B)(2) provides that an untimely appeal may be treated as a motion if it meets the requirements of a motion to reopen or a motion to reconsider.

Inasmuch as the petitioner has failed to identify specifically any erroneous conclusion of law or a statement of fact in this proceeding, the appeal does not meet the standard of a motion.

**ORDER:** The appeal is rejected.