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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: Nebraska Service Center Date: 28 FEB 2002

IN RE: Petitioner:
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: Self-represented

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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of $110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Myra L. Rosenberg

for Robert P. Wiemann, Director
Administrative Appeals Office

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

The petitioner is an individual who seeks classification 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 be employed as a minister by a United States church.

In a decision dated February 28, 2001, the appeal was dismissed on the grounds that the petitioner had failed to establish that he had been an ordained minister and had been solely carrying on the vocation of a minister for at least the two years preceding the filing of the petition as required by 8 C.F.R. 204.5(m)(3)(ii).

On motion, the petitioner submitted a written statement on his own behalf, a Certificate of Commissioning from the Association of Vineyard Churches dated June 24, 1995, a New Brunswick, Canada Cleric's Registration Certificate dated April 26, 1996, a State of Ohio certificate authorizing the petitioner to solemnize marriages dated February 11, 2000, and two additional letters from churches at which the petitioner served.

According to 8 C.F.R. 103.5(a)(2), a motion to reopen must state the new facts to be provided and be supported by affidavits or other documentary evidence. In order to prevail on a motion to reopen, the petitioner must establish that the new facts and/or evidence presented were unavailable at the time the prior decision was issued. Id. According to 8 C.F.R. 103.5(a)(4), a motion that does not meet applicable requirements shall be dismissed.

The petitioner has not presented new evidence that was previously unavailable and has not established that the prior decision was an incorrect application of law. He essentially seeks a readjudication of the underlying petition and a waiver of the thirty-day appeal period. There is no provision for such an adjudication on a motion to reopen. The petitioner has failed to establish that this action meets the applicable requirements of a motion and it must be dismissed.

ORDER: The motion is dismissed.