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U.S. Department of Justice

Immigration and Naturalization Service

Identifying 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: Vermont Service Center Date: JAN 03 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)

Public Copy

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

for 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 motion to reopen. The motion will be rejected.

The petitioner is 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), in order to employ him as a "reader" at a salary of $350 per month.

The Rector of the church filed the Form I-360 visa petition on February 10, 1998. The petitioner was represented by counsel who submitted a duly executed Form G-28, Notice of Entry of Appearance as Attorney or Representative. The petition was denied on its merits by the center director on September 22, 1998. The petitioner, through counsel, filed a Form I-290B Notice of Appeal from the decision with a written brief and additional documentation.

The appeal was dismissed by the Associate Commissioner, by and through the Director, Administrative Appeals Office ("AAO"), on November 29, 2000.

Counsel for the beneficiary now files a motion to reopen the prior proceeding. The appeal was accompanied by a Form EOIR-27 Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals. The form was signed by the new representative who indicated that he is counsel for the beneficiary. It is noted that the Form EOIR-27 is not the proper notice of entry in this matter and that beneficiary did not sign that authorization form at the space provided. There is no evidence that the petitioner's duly authorized counsel withdrew representation from this proceeding pursuant to 8 C.F.R. 292.4(a).

8 C.F.R. 103.3(a)(1)(iii) states, in pertinent part:

> (B) *Meaning of affected party.* For purposes of this section and sections 103.4 and 103.5 of this part, *affected party* (in addition to the Service) means the person or entity with legal standing in a proceeding. <u>It does not include the beneficiary of a visa petition.</u> (Emphasis added.)

8 C.F.R. 103.3(a)(2)(v) states:

> *Improperly filed appeal--(A) Appeal filed by person or entity not entitled to file it--(1) Rejection without refund of filing fee.* 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 the Service has accepted will not be refunded.

The appeal has not been filed by the petitioner, nor by any entity with legal standing in the proceeding; but rather, by counsel for the beneficiary. Therefore, the appeal has not been properly filed and must be rejected.

**ORDER:** The appeal is rejected.