PUBLIC COPY

identifying data
prevent cl
invasion of pers

U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

[redacted]

AUG 15 2003

File: [redacted] Office: NEBRASKA SERVICE CENTER Date:

IN RE: Petitioner:
Beneficiary: [redacted]

Petition: Immigrant 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)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:
This is the decision in your case. All documents have been returned to the office that 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 that 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 Bureau of Citizenship and Immigration Services (Bureau) 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 that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Nebraska Service Center. The Administrative Appeals Office (AAO) summarily dismissed the subsequent appeal. The matter is now before the AAO on a motion to reconsider. The motion will be dismissed.

The petitioner is a church. It seeks to classify the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(4), to perform services as an associate pastor. The director determined that the petitioner had not established that the beneficiary had the requisite two years of continuous work experience as an associate pastor, or membership in the religious denomination, immediately preceding the filing date of the petition.

The AAO summarily dismissed the petitioner's appeal, stating that "the petitioner has failed to identify specifically any erroneous conclusion of law or a statement of fact." The AAO noted that the record does not contain the brief which counsel had indicated was forthcoming.

A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence. 8 C.F.R. § 103.5(a)(2). The petitioner's submission on motion consists solely of a letter from Rev. [redacted] pastor of the petitioning church. The petitioner's claims are neither affidavits nor documentary evidence. Simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. See *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972).

A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3). On motion, counsel does not cite any precedent decisions; counsel simply provides a short cover letter. Rev[redacted]letter does not address the basis for the summary dismissal of the appeal, specifically the petitioner's failure to present substantive arguments or evidence during the time allowed for such submissions. Instead, the letter contains arguments that the petitioner should have made at the appellate stage.

The mechanism for filing motions to reopen or to reconsider is a means to remedy adjudicative error, not a means by which a petitioner may indefinitely prolong or repeat the adjudication of an already-denied petition. If an appeal is dismissed, the filing of a subsequent motion that does not attempt to address the basis for the dismissal does not compel a *de novo* review of the underlying petition. The petitioner has shown no reason why the AAO's summary dismissal should not stand.

Pursuant to 8 C.F.R. § 204.5(a)(4), a motion that does not meet the applicable requirements shall be dismissed. For the reasons cited above, the present motion does not meet those requirements.

ORDER: The motion is dismissed.