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U.S. Department of Homeland Security

Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N.W.
Washington, DC 20536

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

[redacted]

SEP 30 2003

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

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)

ON BEHALF OF PETITIONER: SELF-REPRESENTED

PUBLIC COPY

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 Citizenship and Immigration Services (CIS) 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.

Cindy N. Gomez for
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Director, Vermont Service Center. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner 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 director determined that the petitioner had not established that the beneficiary had been engaged continuously in a qualifying religious vocation or occupation for two full years immediately preceding the filing of the petition. The director also determined that the petitioner had not established that the position qualified as that of a religious vocation or occupation. The director determined that the beneficiary is not qualified to engage in a religious vocation or occupation, and determined that the beneficiary's activities for the petitioner do not require any religious training or qualifications. Finally, the director determined that the petitioner had failed to establish that it had the ability to pay the beneficiary the proffered wage.

On appeal, the Form I-290B, Notice of Appeal, was signed by [redacted] as the attorney or representative for the petitioner. On the Form I-290B, Ms. [redacted] indicated that additional evidence would be submitted within 30 days from the date the appeal was filed. To date, no brief or additional evidence has been received. Therefore, the record must be considered complete.

Upon review of the record, the petitioner also appears to not have submitted sufficient evidence to establish that the beneficiary was a member of the petitioner's religious denomination during the two-year period preceding the filing date of the petition, and that the beneficiary has received a qualifying job offer.

8 C.F.R. § 103.3(a)(1)(iii)(B) states:

> *Meaning of affected party.* For purposes of this section and §§ 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. It does not include the beneficiary of a visa petition. An affected party may be represented by an attorney or representative in accordance with part 292 of this chapter.

8 C.F.R. § 292.4(a) states, in pertinent part, that "An appearance shall be filed on the appropriate form by the attorney or representative appearing in each case.... A notice of appearance entered in application or petition proceedings must be signed by the applicant or petitioner to authorize representation in order for the appearance to be recognized by the Service."

The record, however, does not contain a properly authorized Form G-28, Notice of Entry of Appearance. The Form G-28 is undated and has been signed only by the beneficiary. As noted above, the beneficiary of a visa petition is not an affected party. Furthermore, the petitioner has not signed the Form I-290B, Notice of Appeal.

8 C.F.R. § 103.3(a)(2)(i) states, in pertinent part: "The affected party shall file an appeal on Form I-290B." Under the provisions of 8 C.F.R. § 103.3(a)(2)(v), "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."

In this case, the appeal has not been filed by the petitioner, or by any entity with legal standing in the proceeding. Therefore, the appeal has not been properly filed, and must be rejected.

ORDER: The appeal is rejected.