



U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **JUN 18 2015**

FILE #: [REDACTED]
PETITION RECEIPT #: [REDACTED]

IN RE: Self-Petitioner: [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:

NO REPRESENTATIVE OF RECORD

INSTRUCTIONS:

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

On September 5, 2003, the petitioner filed the instant Petition for Special Immigrant (Form I-360) seeking 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), to perform services as a religious instructor.¹ On December 17, 2004, the Texas Service Center director concluded that the petitioner did not establish that: 1) the proffered position qualifies as a religious occupation; 2) that he had the required two years of qualifying work experience immediately preceding the date the petition was filed; and 3) that his prospective employer is a bona fide tax-exempt, religious organization. On August 9, 2005, we rejected an appeal as improperly filed because a representative of the petitioner's prospective employer, and not the petitioner, filed the appeal. On January 9, 2007, we dismissed a subsequent motion to reopen and reconsider, reaffirming our prior decision that only the petitioner had standing to file the appeal. We nonetheless returned the matter to the director for the limited purpose of reissuing its decision dated December 17, 2004, because the denial notice was erroneously sent to the prospective employer and not to the petitioner.

On August 18, 2010, the California Service Center acting director reissued the December 17, 2004 decision. The petitioner, through counsel, filed a motion to reopen on September 24, 2010. The director dismissed the motion as untimely filed on May 31, 2011. More than two months later, on August 16, 2011, the petitioner filed another motion to reopen and reconsider. On December 31, 2012, the California Service Center director dismissed this second motion as untimely.

On February 5, 2013, the petitioner filed a Form EOIR-29, Notice of Appeal to the Board of Immigration Appeals from a Decision of a DHS Officer (Form EOIR-29), with an alternate request to treat the appeal as a motion to reopen and reconsider. On February 5, 2014, the director dismissed the appeal and motion as untimely and improperly filed because it was filed on Form EOIR-29 instead of Form I-290B. The instant appeal followed.

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. *See* 8 C.F.R. § 103.3(a)(1)(v). In this case, the petitioner submits a brief and additional statements on appeal. However, he has not identified any specific, erroneous conclusion of law or statement of fact in the director's most recent decision, dated February 5, 2014.² Therefore, the appeal must be summarily dismissed in accordance with 8 C.F.R. § 103.3(a)(1)(v).

¹ On January 19, 2010, the prospective employer filed a Form I-360 (receipt # [REDACTED]) on behalf of the beneficiary. This Form I-360 was denied on August 18, 2010. The record does not indicate that the petitioner appealed the denial of this petition.

² The only decision before us on appeal is the director's most recent decision dated February 5, 2014. Although the petitioner cites 8 C.F.R. § 103.5(a)(i) for the proposition that an untimely motion to reopen may be excused in the discretion of the Service, the petitioner does not address his untimely and improperly filed appeal on Form EOIR-29, which is the issue in the only decision before us.

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NON-PRECEDENT DECISION

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In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is summarily dismissed.