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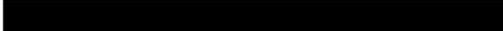
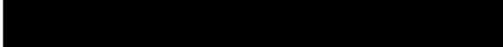
U.S. Department of Justice
Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



Public Copy

File:  Office: Vermont Service Center Date: **AUG 13 2001**

IN RE: Petitioner: 
Beneficiary: 

Petition: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(1)(A)

IN BEHALF OF PETITIONER:

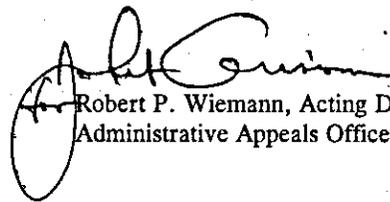


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prevent clearly unwarranted
invasion of personal privacy

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.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS


Robert P. Wiemann, Acting Director
Administrative Appeals Office

Aug 13 01 CAB2203

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Vermont Service Center. The Associate Commissioner for Examinations rejected an improperly filed appeal. The beneficiary has attempted to file another appeal. The appeal will be rejected.

The petitioner is a law firm which seeks to classify the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(1)(A), as an alien of extraordinary ability in the arts. The director determined the petitioner had not established that the beneficiary qualifies for classification as an alien of extraordinary ability.

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. It does not include the beneficiary of a visa petition.

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.

In this case, the alien did not file the Form I-140 petition on her own behalf; rather, the petition was signed and filed by her attorney. Part 1 of the petition form, labeled "[i]nformation about the person or organization filing this petition," identifies the law firm and the attorney as the petitioner. Because the attorney, rather than the alien, signed the petition form, only the attorney has taken legal responsibility for the content of the petition. Therefore, the alien must be considered to be the beneficiary and not the petitioner in this matter. The director properly identified this attorney as the petitioner on the denial notice. Subsequently, the alien beneficiary filed an appeal on her own behalf, and subsequently submitted a new Form G-28 Notice of Entry of Appearance as Attorney or Representative from attorney D. Troy Giles of Seattle, Washington.¹

¹We do not recognize Mr. Giles as the attorney of record in this matter, because Mr. Giles represents only the beneficiary and not the petitioner.

While the petitioning attorney no longer represents the beneficiary, the severing of the attorney-client relationship has no effect on that attorney's standing as the petitioner. The beneficiary's retention of new counsel is without consequence in this matter, as the beneficiary has no standing to contest the director's decision.

The Administrative Appeals Unit included the above facts in its rejection of the beneficiary's initial appeal. The beneficiary, in the new appeal, acknowledges that the prior appeal was not properly filed, but she has once again filed an appeal on her own behalf which, as we have explained, she has no legal standing to do. By regulation, only the petitioner (in this case her former attorney) may appeal the director's decision. There is no record that the petitioner has filed any such appeal, and appeals filed by the beneficiary without the petitioner's participation have no effect.

The appeal has not been filed by the petitioner, nor by any entity with legal standing in the proceeding, but rather by the beneficiary. Therefore, the appeal has not been properly filed, and must be rejected. We note that, even if the beneficiary had standing to file this appeal, the appeal would be untimely pursuant to 8 C.F.R. 103.3(a)(2)(i).

The beneficiary may, of course, file a new petition on her own behalf, but any such action would be independent of the proceeding at hand. We must conclude from the history of the current proceeding that the petitioner has no interest in further pursuing this petition, and it is no longer possible for the petitioner to file a timely appeal.

ORDER: The appeal is rejected.