



U.S. Citizenship
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Services

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FILE: LIN 05 179 52093 Office: NEBRASKA SERVICE CENTER Date: SEP 14 2006

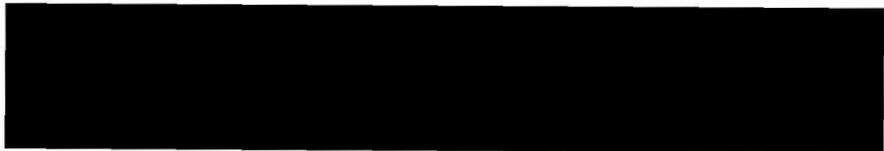
IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

ON BEHALF OF PETITIONER:

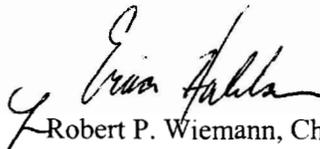
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INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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.


Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected pursuant to the regulation at 8 C.F.R. § 103.3(a)(2)(v)(A).

The petitioner filed the immigrant petition seeking to classify the beneficiary as a multinational manager or executive pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(C). The petitioner is a corporation organized under the laws of the State of Illinois that is operating as a designer and retailer of jewelry, tiaras, headbands and other related accessories. It seeks to employ the beneficiary as its president. The director concluded that the petitioner had not demonstrated that the beneficiary had been employed by the foreign entity or would be employed by the United States entity in a primarily managerial or executive capacity. This timely appeal followed.

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the complete appeal within thirty days of service of the unfavorable decision. In accordance with 8 C.F.R. § 103.3(a)(1)(iii)(B), "affected party" means, in addition to Citizenship and Immigration Services (CIS), the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

Here, Form I-290B, Notice of Appeal to the Administrative Appeals Office, indicates that the beneficiary is the represented party in the present appeal. Additionally, the appellate brief subsequently submitted by counsel identifies the beneficiary as the party appealing the director's decision. Counsel's closing signature on the appellate brief reinforces the finding that the beneficiary himself, rather than the petitioner, is filing the appeal, as she references the beneficiary as the represented party. None of the documents submitted on appeal identify the petitioner as a represented party.¹ CIS regulations specifically prohibit a beneficiary of a visa petition, or a representative acting on a beneficiary's behalf, from filing a petition; the beneficiary of a visa petition is not a recognized party in a proceeding. 8 C.F.R. § 103.2(a)(3). As the beneficiary is not an affected party, counsel is not authorized to file an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B).

As the appeal was not properly filed, it must be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

ORDER: The appeal is rejected.

¹ The AAO notes that the Form G-28, Notice of Entry of Appearance, submitted with the initial filing of the visa petition is the only document in the record identifying the petitioner as a represented party.