



U.S. Department of Justice

Immigration and Naturalization Service

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



File: SRC 01 153 54366

Office: TEXAS SERVICE CENTER

Date:

FEB 27 2003

IN RE: Petitioner:
Beneficiary:



Petition: Immigrant Petition for Alien Worker as any other Worker Pursuant to § 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

IN 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.

Robert P. Wiemann
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The beneficiary, who is employed by Gulfgate Cleaning and Maintenance, filed the present petition on his own behalf. The beneficiary seeks classification as an Other Worker pursuant to Section 203(b)(3)(A)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(iii). The director denied the immigrant visa petition because the beneficiary signed the petition instead of the United States employer.

An alien may not self petition under this visa classification. As stated in 8 C.F.R. § 204.5(c), "[a]ny United States employer desiring and intending to employ an alien may file a petition for classification under section ... 203(b)(3) of the Act."

8 C.F.R. § 103.1(f)(3) states in pertinent part:

(iii) *Appellate Authorities.* In addition, the Associate Commissioner for Examinations exercises appellate jurisdiction over decisions on ...

(B) Petitions for immigrant visa classification based on employment or as a special immigrant or entrepreneur under §§204.5 and 204.6 of this chapter except when the denial is based upon lack of a certification by the Secretary of Labor under section ... 212(a)(5)(A) of the Act...."

As there is no appeal available when a decision is based on a lack of labor certification, this appeal must be rejected.

ORDER: The appeal is rejected.