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Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
2000 AAO, 20 Massachusetts
425 Eye Street N.W.
Washington, D.C. 20536

OCT 02 2003

File: [REDACTED] SRC 01 229 52260 Office: NEBRASKA SERVICE CENTER

Date:

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

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

ON BEHALF OF PETITIONER:

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 employment based 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 petitioner seeks to classify the beneficiary as an employment based immigrant pursuant to section 203(b)(3) of the Immigration and Nationality Act, (the Act), 8 U.S.C. § 1153(b)(3) as a skilled worker or professional. The petitioner is a healthcare provider firm. It seeks to employ the beneficiary permanently in the United States as a physical therapist. As required by statute, the petition is accompanied by an application for Schedule A designation as set forth on the petitioner's "Application for Alien Employment Certification" (Form ETA 750). The director determined that the petitioner had not established that the beneficiary is eligible for certification under Schedule A.

The record shows that an individual has filed the appeal Form I-290B, representing the beneficiary rather than the petitioner.

The regulation at 8 C.F.R. § 103.3(a)(1)(iii) states in pertinent part:

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.

(Original emphasis).

The regulation at 8 C.F.R. § 103.3(a)(2)(v) further provides that "an appeal filed by a person or entity not entitled to file it must be rejected as improperly filed."

As the beneficiary is not an affected party, he has no standing to file an appeal. Therefore, an appeal filed on his behalf must be rejected as improperly filed.

ORDER: The appeal is rejected.