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U.S. Department of Homeland Security
Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
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OCT 21 2003

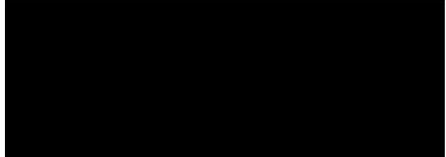
File: WAC 99 063 52326 Office: CALIFORNIA SERVICE CENTER

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:



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 employment based immigrant visa petition was denied by the Director, California 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. The petitioner is a restaurant. It seeks to employ the beneficiary permanently in the United States as a specialty chef. As required by statute, the petition is accompanied by individual certification from the Department of Labor. The director determined that the petitioner had failed to establish that the beneficiary met the qualifications required by the position as set forth on the approved form ETA-750 labor certification.

The record shows that an attorney has filed an 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.