



U.S. Citizenship  
and Immigration  
Services

*BP*



FILE: [Redacted]

Office: NEBRASKA SERVICE CENTER

Date: APR 26 2004

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

PETITION: 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: N/A

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**identifying data deleted to**  
**prevent clearly unwarranted**  
**invasion of personal privacy**

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, Director  
Administrative Appeals Office

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

The petitioner filed an immigrant petition for the beneficiary on September 25, 2002. The director denied the petition on February 26, 2003. Counsel filed an appeal on March 20, 2003. The only G-28 entry of appearance form in the file, however, is one dated September 26, 2002 on behalf of the beneficiary. Thus, the record of proceeding only contains evidence that the beneficiary has consented to be represented by counsel. There is no similar evidence for the petitioner.

The regulations contain several provisions relating to the proper filing of appeals.

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

*Meaning of affected party.* For purposes of this section and sections 103.4 and 103.5 of this part, *affected party* means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition. . . .

The regulation at 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.

Finally, the regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(2) provides:

*Appeal by attorney or representative without proper Form G-28—(i) General.* If an appeal is filed by an attorney or representative without a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) entitling that person to file the appeal, the appeal is considered improperly filed. In such a case, any filing fee [CIS] has accepted will not be refunded regardless of the action taken.

The petitioner has not executed a Form G-28 evidencing its consent to be represented by counsel. Therefore, the appeal is construed as filed by the beneficiary, who has no legal standing in this matter. Thus, the appeal has not been properly filed and must be rejected. Only the petitioner is entitled to notice. 8 C.F.R. § 292.5(a).

**ORDER:** The appeal is rejected.