

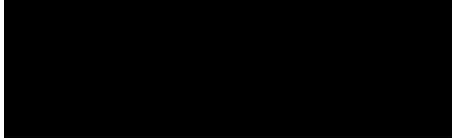
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U.S. Department of Homeland Security  
Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE  
CIS, AAO, 20 Mass, 3/F  
425 I Street, N.W.  
Washington, D.C. 20536



File: [REDACTED] EAC 01 208 53372 Office: NEBRASKA SERVICE CENTER Date: FEB 10 2004

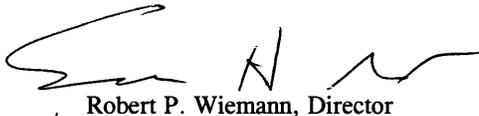
IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

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: SELF-REPRESENTED

**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, 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 (AAO) on appeal. The appeal will be dismissed.

The beneficiary, who is employed by Slone Associates, Inc., filed the present petition on his own behalf. The beneficiary seeks classification as a skilled worker pursuant to section 203(b)(3)(A)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A)(i). The director denied the immigrant visa petition because the beneficiary signed the petition instead of the United States employer. In his decision, the director also noted that the petition was not accompanied by an approved labor certification as required by section 203(b)(3)(C) of the Act and 8 C.F.R. § 204.5(l)(3)(i).

If the director had specifically denied this petition for lack of labor certification, then no appeal would have been available, and this appeal would be rejected. The regulation at 8 C.F.R. § 103.1(f)(3)(iii)(B) states that AAO hears appeals on denials of "[p]etitions 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 . . ."

The director did not specifically deny the petition for lack of a labor certification, but because the beneficiary, rather than petitioner, filed the petition. Therefore, AAO cannot simply reject the appeal.

An alien may not petition in his own behalf for classification under section 203(b)(3) of the Act. Only a prospective employer may do so. See section 204(a)(1)(D) of the Act and 8 C.F.R. § 204.5(c).

In this case, contrary to statute and regulation, the beneficiary filed the petition in his own behalf. On appeal, the employer states that the signing of the petition by the beneficiary was a mistake. This plea does not overcome the ground for the denial; therefore, the appeal must be dismissed.

**ORDER:** The appeal is dismissed.