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**U.S. Citizenship
and Immigration
Services**

Ble



MAR 02 2004

FILE: WAC-02-175-50805 Office: CALIFORNIA SERVICE CENTER Date:

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

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.

A handwritten signature in black ink, appearing to read "R. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

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

The petitioner filed the I-140 for the beneficiary on May 24, 2002 and the director denied it on December 4, 2002. An I-290B Notice of Appeal was filed on December 19, 2002 by [REDACTED]. The line for the name of the "person and/or organization" for whom Ms. [REDACTED] is appearing is left blank, but attached to the I-290B is a copy of a G-28 entry of appearance dated December 16, 2001 stating the appearance by Ms. [REDACTED] on behalf of the beneficiary.

The G-28 form makes no claim that Ms. [REDACTED] is an attorney or an accredited representative. The first three categories on the G-28 are left blank and under category 4 for "Other" the G-28 states, "I am an immigration consultant having worked with the amnesty program and also the H2-A program with accredited entities such as the Western Range Assn. and California Farm Bureau." At the bottom of the form the typed name of the person consenting is that of the beneficiary. However, the signature of the person consenting does not match that name, appearing to be [REDACTED] with other letters illegible.

The name of [REDACTED] does not appear on the most current list of accredited representatives published on the Internet web site of the Executive Office of Immigration Review and dated October 10, 2003. Nor does the statement in category 4 of the G-28 satisfy the requirements in 8 C.F.R. § 292.1 for a person who is neither an attorney nor an accredited representative to serve as a representative. Therefore, a copy of this decision will only be furnished to the petitioner.

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

8 C.F.R. § 103.3(a)(1)(iii) states:

(B) *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. . . .

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 [that CIS] has accepted will not be refunded.

Finally, 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.

In the instant case, the notice of appeal and attached G-28 fail to conform to the above provisions in several ways. The beneficiary lacks legal standing to appeal the petition. The G-28 filed by Ms. [REDACTED] purportedly on behalf of the beneficiary lacks the beneficiary's signature. No evidence indicates that [REDACTED] is authorized to act as a representative.

Therefore, the appeal has not been properly filed and must be rejected.

ORDER: The appeal is rejected.