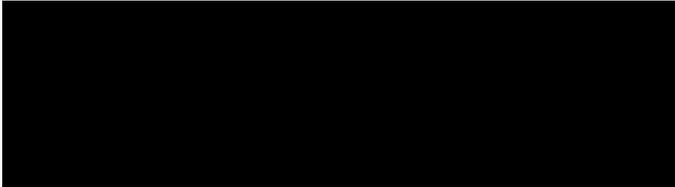




U.S. Citizenship
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FILE:



Office: CALIFORNIA SERVICE CENTER

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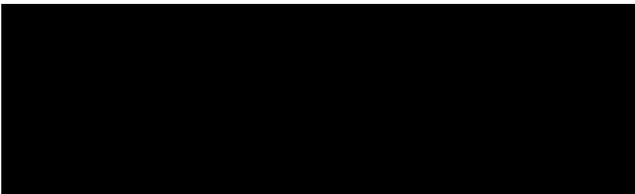
Petitioner:

Beneficiary:



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 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 Director, California Service Center, denied the preference visa petition that is now before the Administrative Appeals Office on appeal. The appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

The petitioner is a paper tube manufacturer. It seeks to employ the beneficiary permanently in the United States as a maintenance mechanic. As required by statute, the petition is accompanied by a Form ETA 750 Application for Alien Employment Certification approved by the Department of Labor. The director determined that the petitioner had not established that the petitioner had the requisite experience for the proffered position as stated on the approved Form ETA 750 Petition for Labor Certification. Moreover, the director found that the petitioner had submitted a fraudulent document to CIS for the purpose of obtaining an immigration benefit.

The Form I-290B appeal filed in this matter was submitted by [REDACTED], an attorney. On that form, the attorney states that she represents [REDACTED], herself. Although the record contains a Form G-28 Notice of Entry of Appearance recognizing [REDACTED] as the attorney in this matter, that appearance was executed by the beneficiary, rather than the petitioner. Nothing in the record shows that the petitioner agreed to be represented by Ms. [REDACTED].

The petitioner also submitted a Form G-28. A different attorney entered his appearance on that form, and that form was signed by the petitioner's owner. The appeal in this matter was not submitted by the petitioner or by its counsel, but by counsel for the beneficiary.

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

(B) Meaning of affected party. For purposes of this section and sections 103.4 and 103.5 of this part, *affected party* (in addition to [CIS]) 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.

The appeal was not filed by the petitioner, nor by any entity with legal standing in this proceeding, but by the beneficiary. The beneficiary of a visa petition is not a recognized party in a proceeding. 8 C.F.R. § 103.2(a)(3). Only the affected party is permitted to file an appeal. 8 C.F.R. § 103.3(a)(2)(i).

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

ORDER: The appeal is rejected.