

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



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

PUBLIC COPY

B6

[Redacted]

FILE: [Redacted]
WAC 03 017 54625

Office: CALIFORNIA SERVICE CENTER

Date: FEB 10 2005

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

PETITION: Immigrant Petition for Alien Worker as a Skilled Worker or Professional Pursuant to
Section 203(b) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

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

CC: [Redacted]

DISCUSSION: The employment based 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 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 professional or skilled worker. The petitioner is a window fashions company. It seeks to employ the beneficiary as a production superintendent. As required by statute, the petition was accompanied by certification from the Department of Labor. The director denied the petition because he determined that the petitioner had not established its ability to pay the proffered wage from the priority date and continuing to the present. The director also denied the petition because the petitioner had not established that the beneficiary met the education and experience requirements as listed on the Form ETA 750.

The record shows that the person filing the appeal is neither an attorney nor an accredited representative, but, instead, is the beneficiary.

The regulation at 8 C.F.R. § 103.3(a)(3)(B) 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. An affected party may be represented by an attorney or representative in accordance with part 292 of this chapter.

The regulation at 8 C.F.R. § 103.3(a)(2)(v) further provides in relevant part:

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 [CIS] has accepted will not be refunded. (Original emphasis).

As the person (the beneficiary) filing the appeal is neither an attorney, nor an accredited representative, nor an affected party, the appeal is considered to be improperly filed, and, therefore, must be rejected.

ORDER: The appeal is rejected.