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U.S. Citizenship
and Immigration
Services



FILE: WAC-00-085-53484 Office: CALIFORNIA SERVICE CENTER Date: **NOV 02 2005**

IN RE: Petitioner:
Beneficiary:

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: 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:

DISCUSSION: The immigrant visa petition was denied by the Director, California Service Center and an appeal was dismissed by the Administrative Appeals Office (AAO). A subsequent motion to reopen was granted by the AAO, and the previous decisions of the director and of the AAO were affirmed. The petition is again before the AAO on a motion to reopen. The motion will be rejected.

The instant motion has been filed by counsel for the beneficiary. With the motion, counsel submits copies of two Form G-28 Notices of Entry of Appearance as Attorney or Representative, signed by counsel for the beneficiary and cosigned at the bottom of each form by the beneficiary in the space for the signature of the person consenting to representation. The record contains no Form G-28 by counsel on behalf of the petitioner.

It its decision of April 22, 2004 denying the previous motion to reopen, the AAO noted the absence of a Form G-28 on behalf of the petitioner, and treated the petitioner as being self-represented in that motion, notwithstanding documents in the file signed by ostensible counsel. At that time, no Form G-28's had been filed by ostensible counsel either on behalf of the petitioner or on behalf of the beneficiary. That same counsel has now filed the instant motion to reopen, with which are enclosed the copies of the two Form G-28's mentioned above on behalf of the beneficiary.

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. . . .

Concerning motions to reopen or reconsider, the regulation at 8 C.F.R. § 103.5(a)(iii)(A) states that such a motion must be “[i]n writing and signed by the affected party or representative of record, if any”

The petitioner has not executed a Form G-28 evidencing its consent to be represented by counsel in the instant motion. Therefore the motion is construed as filed by the beneficiary, who has no legal standing in this matter. Thus the motion has not been properly filed and must be rejected.

ORDER: The motion is rejected.