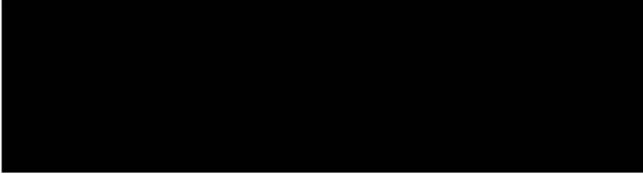


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prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

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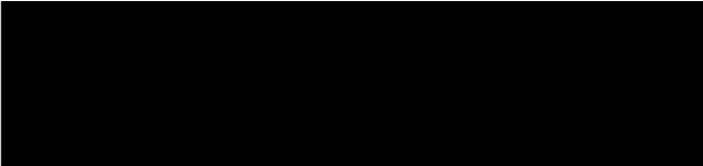
FILE: WAC-02-068-51869 Office: CALIFORNIA SERVICE CENTER Date: **MAY 09 2006**

IN RE: 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.

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

Robert P. Wiemann, Chief
Administrative Appeals Office

Cc: Randy Alexander, Esq., 206 E. Mission Boulevard, Pomona, CA 91766

DISCUSSION: The preference visa petition was denied by the Director, California Service Center, and the subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO again on motion to reopen or reconsider. The motion will be rejected.

The petitioner is a packaging company and seeks to employ the beneficiary as a maintenance mechanic. The director denied the petition finding that fraudulent documents were submitted in support of the requirement of two (2) years of experience. On the subsequent appeal, the AAO concurred with the director's finding and also found that the petitioner did not establish its continuing ability to pay the proffered wage from the priority date to the present. The AAO dismissed the appeal on December 17, 2003.

The instant motion was filed on May 12, 2003 through new counsel. The Form G-28, Entry of Appearance as Attorney or Representative, submitted in conjunction with the Form I-290B, indicates that the beneficiary retained this counsel to file this motion. Counsel states on the Form I-290B that he represents the beneficiary. Citizenship and Immigration Services' (CIS) regulations specifically prohibit a beneficiary of a visa petition, or a representative acting on a beneficiary's behalf, from filing an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B). As the motion was not properly filed, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

The record of proceeding contains a properly executed Form G-28 signed by the petitioner's representative and an attorney different than counsel filing the instant motion. Since it is uncertain whether or not the petitioner obtained new counsel, a copy of this decision will be provided to the petitioner's last known counsel of record. A courtesy copy will also be provided to the beneficiary's counsel.

ORDER: The motion is rejected as improperly filed.