



U.S. Citizenship  
and Immigration  
Services

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BF

FILE:

Office: VERMONT SERVICE CENTER

Date: NOV 16 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:

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, Chief  
Administrative Appeals Office

Cc:

**DISCUSSION:** The preference visa petition was denied by the Director, Vermont Service Center, and now the matter is before the Administrative Appeals Office (AAO). The appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A).

The petitioner is a software development company and seeks to employ the beneficiary as a programmer analyst. The director denied the petition finding that the petitioner had not established its continuing ability to pay the proffered wage as of the priority date of the petition.

The Form G-28, Entry of Appearance as Attorney or Representative, submitted in conjunction with the Form I-290B, indicates that the beneficiary retained counsel to file the appeal. 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). Although counsel states that it represents the petitioner as well as the beneficiary, the record does not contain Form G-28 signed by both counsel and the petitioner's authorized representative. As the appeal was not properly filed, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

A courtesy copy will be provided to the beneficiary's counsel. Since the petitioner was represented earlier in these proceedings, prior to the appeal, a courtesy copy is also being provided to that law office.

As the appeal was improperly filed, the appeal must be rejected.

**ORDER:** The appeal is rejected.