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**U.S. Citizenship  
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Services**

B6

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FILE:

EAC-04-098-50684

Office: VERMONT SERVICE CENTER

Date: SEP 06 2006

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.

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

Robert P. Wiemann, Chief  
Administrative Appeals Office



**DISCUSSION:** The employment-based immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The petitioner seeks to classify the beneficiary pursuant to section 203(b)(3) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3), as a skilled worker/ professional. The director determined that approval of the petition was barred by the operation of section 204(c) of the Act, due to evidence obtained during the course of the adjudication of a previous I-130 marriage based petition and accompanying I-485 application for adjustment of status to permanent residence that the beneficiary had conspired to enter into a marriage for the purpose of evading immigration laws.

The I-290B notice of appeal is signed by [REDACTED] who checked the block on the I-290B stating that he is an attorney or representative. He states that he represents the I-140 petitioner and the beneficiary. The record contains a copy of a Form G-28 Notice of Entry of Appearance as Attorney or Representative, signed by Mr. [REDACTED] and co-signed by [REDACTED] who is the individual who signed the I-140 petition on behalf of the petitioner.

The G-28 form makes no claim that [REDACTED] is an attorney or an accredited representative. On the G-28, the first three blocks for representative qualification category are left blank and under category 4 for "Other" the G-28 states, "Paralegal, experienced in labor certification Processing."

The name of [REDACTED] does not appear on the most current list of accredited representatives published on the Internet web site of the Executive Office of Immigration Review and dated July 10, 2006. Nor does the statement in category 4 of the G-28 satisfy the requirements in 8 C.F.R. § 292.1 for a person who is neither an attorney nor an accredited representative to serve as a representative.

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. 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) 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 [that CIS] has accepted will not be refunded.

In the instant case, the notice of appeal and attached G-28 fail to conform to the above provisions because no evidence indicates that [REDACTED] is authorized to act as a representative.

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

**ORDER:** The appeal is rejected.