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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

BC

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FILE:



Office: TEXAS SERVICE CENTER

Date: JUL 17 2008

SRC 06 231 51972

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The preference visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

The petitioner is a healthcare provider. It seeks to employ the beneficiary permanently in the United States as a registered nurse. Accompanying the petition, the petitioner submitted an Application for Alien employment Certification Form ETA 750 dated July 10, 2006.

The director determined, *inter alia*, that the evidence submitted does not demonstrate that the notice of filing the Application for Permanent Employment Certification was made according to the regulation at 20 C.F.R. § 656.10(d).

The appeal was filed December 11, 2006 as captioned "In the matter of" the beneficiary signed by attorney K. [REDACTED] who upon the Form I-290B indicated that "I am an attorney or representative, and I represent: [the beneficiary]." Submitted with the appeal form was a Form G-28 Notice of Appearance as Attorney or Representative signed by [REDACTED]. The beneficiary signed the form consenting to the representation of [REDACTED].

The regulation at § 8 C.F.R. 103.3(a)(1)(iii) states, in pertinent part:

(B) Meaning of affected party. For purposes of this section and sections 103.4 and 103.5 of this part, *affected party* (in addition to [Citizenship and Immigration Services (CIS)]) means the person or entity with legal standing in a proceeding. *It does not include the beneficiary of a visa petition*

(Emphasis added).

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 the Service has accepted will not be refunded.

The appeal was not filed by the petitioner, or by any entity with legal standing in this proceeding, but by the beneficiary through her representative. The beneficiary of a visa petition is not a recognized party in that proceeding. 8 C.F.R. § 103.2(a)(3). Only the affected party is permitted to file an appeal. 8 C.F.R. § 103.3(a)(2)(i).

As the beneficiary and her representative are not recognized parties, the appellant is not authorized to file an appeal. 8 C.F.R. § 103.3(a)(2)(v)(A) and (B).

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

ORDER: The appeal is rejected.