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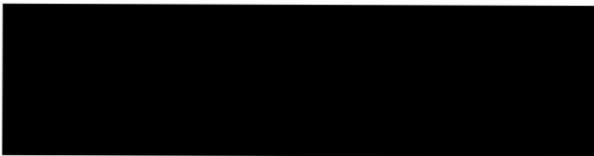
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529-2090
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U.S. Citizenship
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FILE: WAC 02 182 52262 Office: CALIFORNIA SERVICE CENTER Date: NOV 10 2008

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

DISCUSSION: The director denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A).

The petitioner is foreign language radio station. 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 computer operator. The director determined that the petitioner has not established its ability to pay the proffered wage to the beneficiary, and denied the petition accordingly.

On appeal, [REDACTED], former counsel for the beneficiary, states that the director erred in its decision and that additional information would be submitted with a brief within 30 days. The beneficiary's counsel dated the appeal April 3, 2003. As of this date, more than five years and six months later, the AAO has received nothing further. Further the AAO received correspondence dated March 19, 2007 with regard to the instant appeal. Mr. [REDACTED] stated that he had previously withdrawn as the attorney of record with regard to the appeal.¹

The Form G-28, Entry of Appearance as Attorney or Representative, that was submitted earlier in the proceedings in conjunction with the beneficiary's response to the director's request for evidence dated July 23, 2002 was signed by the beneficiary, not by an authorized representative of the petitioner. 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 a petition; the beneficiary of a visa petition is not a recognized party in a proceeding. 8 C.F.R. § 103.2(a)(3). As the beneficiary and his representative are not recognized parties, former counsel was not authorized to file an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B). As the appeal was not properly filed, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

If the appeal was not being rejected because it was filed by an improper party; it would otherwise be summarily dismissed. As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

ORDER: The appeal is rejected.

¹ The AAO notes that the petitioner also submitted a G-28 to the record in conjunction with the I-140 petition. The petitioner's counsel is identified on the front page of this decision. The record contains no appeal filed timely by the petitioner.