

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

DI



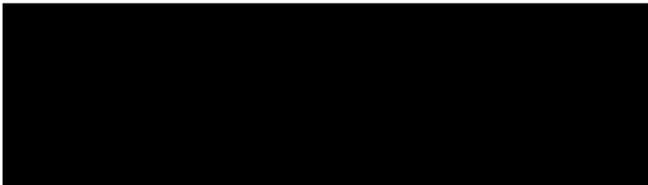
FILE: SRC 04 239 50980 Office: TEXAS SERVICE CENTER Date: DEC 04 2006

IN RE: Petitioner:
Beneficiary:



PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

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 director of the Texas Service Center denied the nonimmigrant visa petition on February 16, 2005. The director rejected a Form I-290B, Appeal to the Administrative Appeals Office (Form I-290B) and Motion to Reopen and Reconsider (Motion) on March 18, 2005, because the attorney used an obsolete version of the Form I-290B. Counsel attempted to file a new Form I-290B, appeal and motion on March 29, 2005. The director denied the motion to reopen and reconsider on April 8, 2005. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as improperly filed.

The regulation at 8 C.F.R. § 103.2(a)(3) provides in pertinent part that, “[a]n applicant or petitioner may be represented by an attorney in the United States . . . A beneficiary of a petition is not a recognized party in such a proceeding.”

The regulation at 8 C.F.R. § 103.3(a)(1)(iii)(B) states in pertinent part that, for purposes of this section the:

“[A]ffected party” (in addition to the Service) 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 record reflects that the beneficiary, rather than the petitioner, retained new counsel to file a motion and appeal on the petitioner’s behalf. Although new counsel, [REDACTED], indicates on the Form G-28s and Form I-290Bs that he appears as an attorney for the petitioner, the G-28s filed on appeal and on motion are signed by the beneficiary, not the petitioner. The regulations clearly reflect that the beneficiary is not a recognized party to this proceeding, and that the beneficiary is not entitled to file an appeal, or to retain counsel for himself, on the petitioner’s behalf.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(A) provides that an appeal filed by a person or entity not entitled to file must be rejected as improperly filed.

The record contains no evidence to establish that the present appeal was filed by the petitioner. Accordingly, the appeal must be rejected.

ORDER: The appeal is rejected.