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U.S. Department of Homeland Security  
20 Mass. Ave., N.W., Rm. A3000  
Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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File: SRC 03 244 50536 Office: TEXAS SERVICE CENTER Date: **JUL 16 2007**

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

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)

IN 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.

*James Blunzinger, for*

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the director, Vermont Service Center, and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is now before the AAO on a motion to reopen the decision of the AAO. The motion will be rejected.

The petitioner is an auto electrical repair business that seeks to extend the beneficiary's employment as an auto electrical technician. The petitioner, therefore, endeavors to extend the beneficiary's status as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The motion will be rejected, as it was filed on behalf of the beneficiary only. The beneficiary was the signator on the Form G-28 that was filed with the instant motion. A motion may not be filed on behalf of a person that is not a party of the underlying petition, and CIS regulations specifically state that a beneficiary of a visa petition is not a recognized party in a proceeding. 8 C.F.R. § 103.2(a)(3). As the beneficiary is not a recognized party, counsel is not authorized to file an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B). As the beneficiary's counsel is not authorized to make representations on behalf of the petitioner, the AAO must reject her motion, and it will not notify her of this proceeding.

In addition, even if the motion was filed by the correct person, the motion would still be rejected as untimely filed.

An affected party has 30 days from the date of an adverse decision to file a motion to reopen or reconsider a proceeding before Citizenship and Immigration Services (CIS). 8 C.F.R. § 103.5(a)(1)(i). If the adverse decision was served by mail, an additional three-day period is added to the 30-day period. 8 C.F.R. 103.5a(b). Any motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

The AAO issued its decision on September 7, 2005. Although counsel submitted a motion, she did so with the incorrect motion fee, which CIS properly rejected. The motion was not received in proper filing condition until October 18, 2005, or 41 days after the decision was issued. Accordingly, the motion was untimely filed.

Neither counsel nor the petitioner presents any evidence for CIS to consider regarding the delay in timely filing the motion. 8 C.F.R. § 103.5(a)(1)(i). Accordingly, the motion will be rejected as untimely filed.

For the reasons set forth in this decision, the motion will be rejected.

**ORDER:** The motion is rejected.