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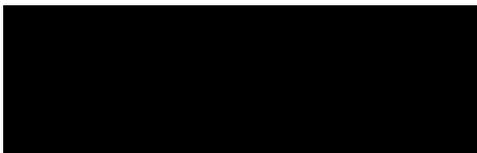
U.S. Department of Homeland Security  
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Washington, DC 20529



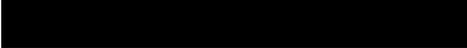
U.S. Citizenship  
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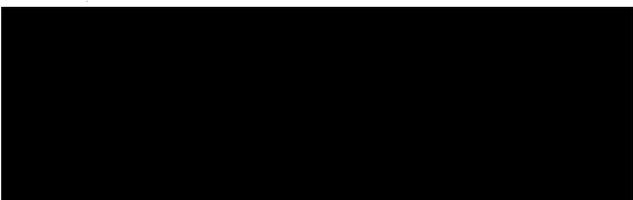


FILE: LIN 02 109 51911 Office: NEBRASKA SERVICE CENTER Date: **MAR 18 2005**

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*  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The service center director denied the nonimmigrant visa petition and the Administrative Appeals Office (AAO) rejected a subsequent appeal. The matter is again before the AAO on motion to reopen or reconsider. The motion will be dismissed.

The record contained only one Form G-28 at the time the AAO rendered its previous decision in this proceeding, and that lone Form G-28 was signed only by the beneficiary. Accordingly, the AAO properly rejected the appeal, pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(1), because it was not filed by a recognized party.

The attorney who previously filed the aforementioned G-28 now attempts to motion the AAO to reconsider and reverse its earlier decision, so as to consider the appeal and recognize her as the petitioner's counsel on that matter. The attorney contends that the regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(2) authorizes her to file a new Form G-28 at this time to reflect that she represents the petitioner.

The attorney misconstrues 8 C.F.R. § 103.3(a)(2)(v)(A)(2). This provision applies when an appeal is filed without a properly executed Form G-28. Here, however, the appeal was filed with a Form G-28 that was properly executed. It indicated, however, that the attorney represented the beneficiary alone. In this situation, 8 C.F.R. § 103.3(a)(2)(v)(A)(1) governs: an appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. As the appeal was properly rejected, it is too late for the petitioner or counsel to enter an appearance. Consequently, the motion is dismissed, and the appeal remains rejected.

**ORDER:** The motion is dismissed.