

PUBLIC COPY

D 2

U.S. Department of Homeland Security

Citizenship and Immigration Services

**identifying data deleted to
prevent disclosure of information wanted
invasion of personal privacy**

ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N.W.
Washington, DC 20536

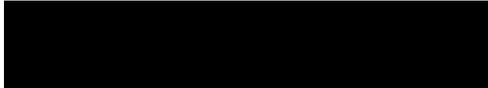


FILE: EAC 02 267 53181

OFFICE: VERMONT SERVICE CENTER

DATE: **DEC 17 2003**

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:



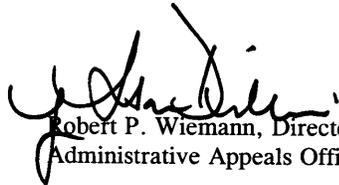
INSTRUCTIONS:

This is the decision 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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director of the Vermont Service Center denied the nonimmigrant visa petition and 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 a video and multimedia production firm that employs twelve persons and has an unstated gross annual income. It seeks to employ the beneficiary as an audio-video technician. The director denied the petition on the basis that the proffered position did not meet the definition of a specialty occupation.

The record contains a Form G-28, Entry of Appearance as Attorney or Representative, executed on August 15, 2002, which indicated counsel's authorization to represent both the petitioner and the beneficiary. However, counsel indicates that he is acting on behalf of the beneficiary. The notice of appeal, Form I-290B, states that counsel is filing the appeal on behalf of the beneficiary. Likewise, the Preliminary Statement of counsel's brief states that "[a]ppellant/beneficiary" is offering the brief.

Citizenship and Immigration Services regulations state that a beneficiary of a visa petition has no legal standing in an appeal, and specifically prohibit a beneficiary, or a representative acting on a beneficiary's behalf, from filing 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).

ORDER: The appeal is rejected as improperly filed.