

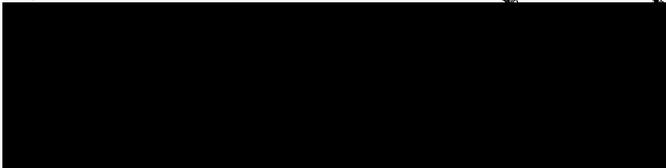
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U.S. Department of Homeland Security  
20 Mass. Rm. A3042, 425 I Street, N.W.  
Washington, DC 20529



U.S. Citizenship and Immigration Services



FILE: WAC 02 271 51831 Office: CALIFORNIA SERVICE CENTER Date: **AUG 4 2004**

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

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

ON 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.

to Robert P. Wiemann, Director  
Administrative Appeals Office

cc: [Redacted]

**DISCUSSION:** The service center director denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner is a general architectural firm. In order to continue employing the beneficiary as a job captain, the petitioner endeavors to extend the beneficiary's stay and continue his classification as a nonimmigrant worker in a specialty occupation 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). The director denied the petition on the basis that the proffered position did not meet the definition of a specialty occupation.

An appeal was filed on August 22, 2003, followed by a request to withdraw the appeal on July 29, 2004.

The Form I-290B (Notice of Appeal) in this proceeding states that the attorney represents the entity that is the petitioner in this proceeding. Likewise, in the "Appeal Supportive Brief" the attorney uses language that is consistent with representation of the petitioner. However, although it is checked at the box that indicates that the attorney was acting at the request of the petitioner, the Form G-28 (Entry of Appearance as Attorney or Representative) states that the attorney was entering his appearance on behalf of "Shafer Ian (sic)," who is the *beneficiary*. Furthermore, the only signature on the Form G-28 is the attorney's. In the "Motion to Withdraw Appeal," the attorney names the beneficiary, Ian Shafer, as the client on whose behalf he is requesting withdrawal of the appeal. The record contains no documentation from the petitioner that indicates legal representation by the attorney.

As indicated above, the record does not establish that the attorney was authorized by the petitioner to file an appeal on its behalf. Citizenship and Immigration Services (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, the attorney is not authorized to file an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B). Accordingly, the AAO will reject the appeal pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(I). As an appeal is no longer pending in this proceeding, the motion to withdraw the appeal is null and will not be acted upon.

**ORDER:** The appeal is rejected.