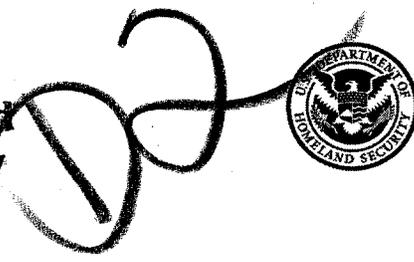


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U.S. Department of Homeland Security
20 Mass. Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

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invasion of personal privacy**



**U.S. Citizenship
and Immigration
Services**



FILE: SRC 02 209 52928 Office: TEXAS SERVICE CENTER Date: **MAR 03 2004**

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

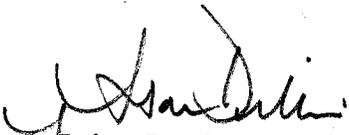
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

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, Director
Administrative Appeals Office

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 manufacturer of architectural stonework. It endeavors to classify the beneficiary 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), so that it may employ him as a sculptor. The director denied the petition on the basis that the proffered position did not meet the definition of a specialty occupation.

The only matters submitted on appeal are a Form I-290B (Notice of Appeal) and an incomplete Form G-28 (Notice of Appearance as Attorney or Representative).

On the client identification section of the Form I-290B, counsel stated that he represented the beneficiary. In conjunction with the Form I-290B, counsel submitted an undated Form G-28 that is ineffective because it is unsigned in the consent to disclosure section. However, the record also contains a Form G-28 that the beneficiary signed on June 7, 2002 to authorize counsel to represent him. The record also contains Form G-28, signed on May 20, 2002, by which the petitioner authorized counsel to represent it.

The decisive facts here are that (1) counsel submitted a Form I-290B that states that he represents the appellant and nowhere indicates that he also represents the petitioner on appeal; and (2) the record contains a Form G-28 in which the beneficiary authorized counsel to represent him. On these facts, the AAO must reject the appeal because it was submitted on behalf of the beneficiary.

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, counsel is not authorized to file an appeal on his behalf. 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)(1).

As an administrative matter, the AAO notes that the appeal would have been subject to summary dismissal if it had been filed on behalf of the petitioner. This is because counsel's comments on the Form I-290B fail to specify how the director made any erroneous conclusion of law or statement of fact in denying the petition. *See* 8 C.F.R. § 103.3(a)(1)(v).

ORDER: The appeal is rejected.