



U.S. Citizenship
and Immigration
Services

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FILE: SRC 05 215 51677 Office: TEXAS SERVICE CENTER Date: MAR 01 2007

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner is a corporation engaged in the business of importing and exporting video games and electronics. In order to employ the beneficiary as its controller, the petitioner filed this H-1B petition for classification of the beneficiary as a temporary 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 petitioner had failed to establish that the proffered position meets the definition of a specialty occupation as set forth at 8 C.F.R. § 214.2(h)(4)(iii)(A).

The Citizenship and Immigration Services (CIS) regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(I), *Rejection without refund of filing fee*, states:

An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee [CIS] has accepted will not be refunded.

The attorney who submitted the appeal signed the Form I-290B (Notice of Appeal) as the representative of the beneficiary; and the only Form G-28 (Entry of Appearance as Attorney or Representative) in the record of proceeding was signed by the beneficiary alone, on a date subsequent to the director's decision denying the petition.

CIS regulations specifically state that a beneficiary of a visa petition is not recognized as an affected party in a proceeding. 8 C.F.R. § 103.2(a)(3). As the beneficiary is not an affected party, her 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).

ORDER: The appeal is rejected.