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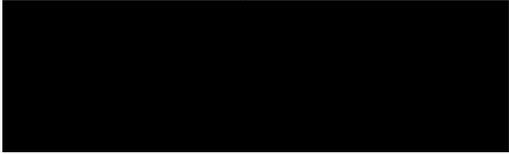
U.S. Department of Homeland Security

Citizenship and Immigration Services

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DH

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



FILE: WAC 02 250 50926

Office: California Service Center

Date: **NOV 26 2003**

IN RE: Petitioner:
Beneficiary:

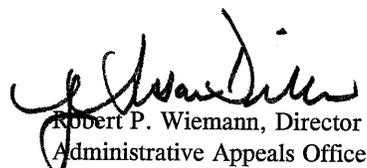


PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(ii)(b)

ON BEHALF OF PETITIONER: Self-represented

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.


Robert P. Wiemann, Director
Administrative Appeals Office

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

The petitioner is a trucking business. It desires to employ the beneficiary as a truck driver for four months. The petition was not accompanied by the required temporary labor certification, ETA-750. The director determined that, absent the certification, the beneficiary is ineligible for classification as a nonimmigrant temporary worker.

The beneficiary states that the reason for the appeal is:

I am in the process of filing an employment certification. A copy will be sent with my brief within 30 days.

The regulation at 8 C.F.R. § 103.3(a)(1)(iii) states, in pertinent part:

(B) *Meaning of affected party.* For purposes of this section and §§103.4 and 103.5 of this part, *affected party* (in addition to the Service) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

The regulation at 8 C.F.R. § 103.3(a)(2) states:

(v) *Improperly filed appeal-*(A) *Appeal filed by person or entity not entitled to file it-*(1) *Rejection without refund of filing fee.* 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 the Service has accepted will not be refunded.

The appeal has not been filed by the petitioner or an affected party, but rather by the beneficiary. Therefore, the appeal must be rejected.

ORDER: The appeal is rejected.