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U.S. Citizenship
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Services

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File: SRC 02 184 50541 Office: TEXAS SERVICE CENTER Date: NOV 30 2006

IN RE: Petitioner:
Beneficiary:



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

IN 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 of the Texas Service Center denied the nonimmigrant visa petition on December 2, 2002. On March 10, 2003, the director denied a motion to reopen and reconsider. On May 20, 2003, the spouse of the beneficiary filed an untimely appeal to the denial of the motion, which was treated by the director as a second motion to reopen and reconsider. On March 27, 2004, the director denied the second motion pursuant to 8 C.F.R. § 103.5 for failure to meet the applicable requirements of a motion. On April 23, 2004, counsel to the beneficiary appealed the denial of the second motion to the Administrative Appeals Office (AAO). This matter is now before the AAO on appeal. The appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

The petitioner is a Florida corporation allegedly engaged in the business of interior decoration and remodeling. The petitioner seeks to extend the employment of the beneficiary as its president as an L-1A nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The director denied the petition after concluding that the petitioner failed to establish that (1) the beneficiary will be employed primarily in a managerial or executive capacity; (2) the petitioner has a qualifying relationship with the foreign entity; (3) the beneficiary intended to return abroad after the assignment in the United States; (4) the petitioner had been doing business during the previous year; and (5) the foreign entity continued to do business abroad.

The Forms G-28, Entry of Appearance as Attorney or Representative, which were submitted for the record were both signed by the beneficiary, not by an authorized representative of the petitioner and not on behalf of the petitioner. Therefore, the attorney identified in the Form G-28 is counsel to the beneficiary, not counsel to the petitioner. The Form I-290B that was submitted in response to the March 27, 2004 decision was signed and filed by the attorney identified in the above Form G-28 as the attorney for the beneficiary and his spouse.

Citizenship and Immigration Services (CIS) regulations specifically prohibit a beneficiary of a visa petition, or a representative acting on a beneficiary's behalf, from filing a petition; the beneficiary of a visa petition is not a recognized party in a proceeding. 8 C.F.R. § 103.2(a)(3). As the beneficiary and his representative are not recognized parties, counsel is not authorized to file an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B).

As the appeal was not properly filed, it will be rejected.¹ 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

ORDER: The appeal is rejected.

¹It should be noted that 8 C.F.R. § 103.3(a)(1)(v) requires an officer to whom an appeal is taken to summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. In this matter, the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding. The only error alleged by purported counsel in the Form I-290B was that the director should have construed the second motion filed by the spouse of the beneficiary to have been filed by both the spouse and the beneficiary. However, as explained above, CIS regulations specifically prohibit even a beneficiary of a visa petition from filing a petition, motion, or appeal. See 8 C.F.R. §§ 103.2, 103.3, and 103.5. Therefore, as counsel has not identified an erroneous conclusion of law or statement of fact for the appeal, the appeal would be summarily dismissed if it were not being rejected for the reason given in this decision.