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U.S. Citizenship
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Services

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File: SRC 05 107 50638 Office: TEXAS SERVICE CENTER Date: OCT 23 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 and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

The petitioner filed this nonimmigrant visa petition seeking to extend the employment of the beneficiary in the position of operation specialties manager 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 petitioner is a corporation organized under the laws of the State of Florida and is allegedly engaged in the business of importing and exporting construction equipment and materials. The director denied the petition concluding that the petitioner failed to establish that the beneficiary will be employed in a managerial or executive capacity.

Counsel for the beneficiary filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review.

The Form G-28, Entry of Appearance as Attorney or Representative, dated June 15, 2005 and which was submitted with the current appeal, was signed by the beneficiary (identified in the G-28 as "applicant"), 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 May 31, 2005 decision was signed and filed by the attorney identified in the above Form G-28 as counsel to the beneficiary.

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). Moreover, a prior approval of a visa petition does not vest a beneficiary with any rights. *See Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). As the beneficiary and her 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. 8 C.F.R. § 103.3(a)(2)(v)(A)(I).¹

ORDER: The appeal is rejected.

¹Moreover, a review of Citizenship and Immigration Services records indicates that this beneficiary is also the beneficiary of an approved immigrant petition and has adjusted status to that of a permanent resident on August 15, 2006. While the petitioner has not withdrawn the appeal in this proceeding, it would appear that the beneficiary is presently a permanent resident and the issues in this proceeding are moot. Therefore, the appeal would be dismissed as moot if it were not being rejected for the reasons given in this decision.