

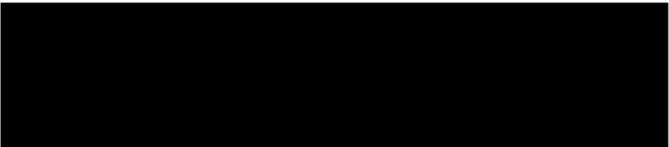
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U.S. Citizenship  
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File: SRC 04 103 52275 Office: TEXAS SERVICE CENTER Date: JUN 05 2007

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)(B)(1) and 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

The regulation at 8 C.F.R. § 103.3(a)(2)(i) requires an affected party to file the complete appeal within 30 days after service of the decision, or, in accordance with 8 C.F.R. § 103.5a(b), within 33 days if the decision was served by mail. The record indicates that the decision of the director was mailed on March 23, 2004. There was an attempt to file an appeal on April 26, 2004, but the Texas Service Center properly rejected the appeal because the Form I-290B was unsigned. The Texas Service Center promptly returned the appeal documents along with a rejection notice. The appeal was filed with an executed Form I-290B on May 4, 2004, 42 days after the decision was mailed. Thus, the appeal was not timely filed.

The regulation at 8 C.F.R. § 103.2(a)(1) requires that all documents submitted to a service center be executed and filed in accordance with the instructions on the form. Further, 8 C.F.R. § 103.2(a)(7) provides that “[a]n application or petition which is not properly signed . . . shall be rejected as improperly filed” and that “[r]ejected applications and petitions . . . will not retain a filing date.” Therefore, the attempt to file an appeal with an unsigned I-290B on April 26, 2004 did not extend the time to file a properly executed appeal beyond the 33<sup>rd</sup> day.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(B)(2) states that, if an untimely appeal meets the requirements of a motion to reopen as described in 8 C.F.R. § 103.5(a)(2) or a motion to reconsider as described in 8 C.F.R. § 103.5(a)(3), the appeal must be treated as a motion, and a decision must be made on the merits of the case. The official having jurisdiction over a motion is the official who made the last decision in the proceeding, in this case the service center director. See 8 C.F.R. § 103.5(a)(1)(ii). The director declined to treat the late appeal as a motion and forwarded the matter to the AAO.

Furthermore, on May 4, 2004, it appears that the beneficiary, and not the petitioner, filed the Form I-290B with the service center. As the beneficiary did not indicate that she was signing the Form I-290B on behalf of the petitioner, it must be concluded that the beneficiary filed the Form I-290B, and not the petitioner. Citizenship and Immigration Services 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 is not a recognized party, she was not authorized to file the appeal even if it was timely filed. 8 C.F.R. § 103.3(a)(1)(iii)(B).

**ORDER:** The appeal is rejected.<sup>1</sup>

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<sup>1</sup>It must be noted that, according to Florida state corporate records, the petitioner's corporate status in Florida was "administratively dissolved" on October 1, 2004. Therefore, since the corporation may not carry on any business except that necessary to wind up and liquidate its affairs, and the petitioner has not taken steps under Florida law to seek reinstatement, the company can no longer be considered a legal entity in the United States. See Fla. Stat. 607.1421 (2006). If this appeal were not being rejected, this would also call into question the petitioner's continued eligibility for the benefit sought.