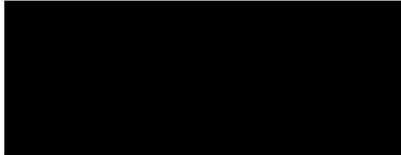




U.S. Citizenship
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prevent clearly unwarranted
invasion of personal privacy



D7

File: WAC 03 021 51760 Office: CALIFORNIA SERVICE CENTER Date: SEP 06 2007

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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)

ON BEHALF OF PETITIONER:



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: On March 12, 2003, the Director of the California Service Center denied the nonimmigrant visa petition. The petitioner appealed this denial to the Administrative Appeals Office (AAO) and, on June 17, 2005, the AAO dismissed the appeal. Counsel for the beneficiary subsequently filed a motion to reopen the AAO's decision on July 15, 2005, in accordance with 8 C.F.R. § 103.5. In a decision dated November 3, 2006, the AAO dismissed the motion pursuant to 8 C.F.R. §§ 103.5(a)(1)(iii)(A), 103.5(a)(2), and 103.5(a)(4). On November 29, 2006, counsel to the beneficiary filed an appeal of the dismissed motion to reconsider, and the matter is now before the AAO.¹ The appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

The petitioner is a Nevada corporation allegedly engaged in the entertainment business. The petitioner seeks to employ the beneficiary as its executive director 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 a qualifying relationship between the United States and foreign entities or to establish that the beneficiary will be employed in a primarily executive or managerial capacity. The AAO subsequently dismissed the appeal and a subsequently filed motion to re-open.

The appeal filed on November 29, 2006 clearly states that it is being made on behalf of the beneficiary. The appeal is not being made on behalf of the petitioner. 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 her purported representative are not recognized parties, counsel is not authorized to file an appeal and the appeal must be dismissed for this reason. 8 C.F.R. §§ 103.5(a)(1)(iii)(A) and 103.5(a)(4).

Moreover, the AAO does not exercise appellate jurisdiction over AAO decisions. The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). See DHS Delegation Number 0150.1(U) *supra* ; 8 C.F.R. § 103.3(a)(iv). Accordingly, the appeal is not properly before the AAO. It should be noted that the petitioner did have the option of filing a motion to reopen or a motion to reconsider the AAO's most recent decision pursuant to 8 C.F.R. § 103.5.

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

¹While counsel filed the appeal using Form EOIR-29, Notice of Appeal to Board of Immigration Appeals from a Decision of an INS Officer, it must be noted that the Board of Immigration Appeals does not have jurisdiction over this matter. See 8 C.F.R. § 1003.1(b). The authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in him through the Homeland Security Act of 2002, Pub. L. 107-296. See DHS Delegation Number 0150.1 (effective March 1, 2003); see also 8 C.F.R. § 2.1 (2003). The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003). See DHS Delegation Number 0150.1(U) *supra* ; 8 C.F.R. § 103.3(a)(iv).

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ORDER: The appeal is rejected.