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U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

FILE: EAC 02 111 51702

Office: VERMONT SERVICE CENTER

Date: FEB 12 2003

IN RE: Petitioner:
Beneficiary:



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

PUBLIC COPY

IN BEHALF OF PETITIONER:



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.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be rejected.

The petitioner in this matter is an engineering consulting company. The beneficiary is a graphic designer. The petitioner filed a Form I-129, Petition for a Nonimmigrant Worker, seeking classification of the beneficiary as an alien of extraordinary ability under section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(O)(i) as a CAD graphic designer at an annual salary of \$45,000.

The director denied the petition, finding that the petitioner failed to establish that the beneficiary qualifies as an alien of extraordinary ability within the meaning of Section 101(a)(15)(O)(i) of the Act and that the petitioner failed to provide the required consultation with a peer group in the area of the alien's ability.

On behalf of the beneficiary, counsel filed a Form I-290B, Notice of Appeal from that decision. On appeal, counsel submits a G-28, Notice of Entry of Appearance as Attorney or Representative on behalf of the beneficiary. The same attorney is the attorney of record for both the petitioner and the beneficiary with respect to the initial petition. Nonetheless, the appeal must be rejected. Only the petitioner has the standing to file an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B). The beneficiary does not have standing in this visa petition proceeding. 8 C.F.R. § 103(a)(1)(iii)(B). The beneficiary signed the Form I-290B, Notice of Appeal. Therefore, the appeal has not been properly filed and must be rejected on that basis.

ORDER: The appeal is rejected.