

PUBLIC COPY

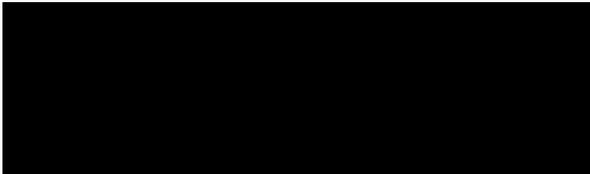
**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

DOB



U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

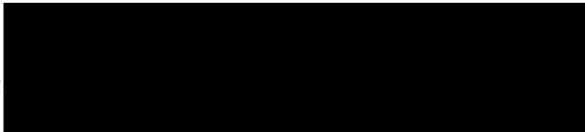
**U.S. Citizenship
and Immigration
Services**



FILE: SRC 03 165 53509 Office: TEXAS SERVICE CENTER Date:

FEB 06 2004

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)

ON 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
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

A form I-129 was filed on May 27, 2003, in the name of Embryo Transfer, Inc., seeking an extension of O-1 classification of the beneficiary, 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 an alien with extraordinary ability in equine reproduction, in order to employ him in the United States for a period of three years as an equine reproduction and genetic handling manager.

The director denied the petition because the petitioner failed to establish that the beneficiary is at the very top of his field of endeavor.

A Form I-290B Notice of Appeal was timely filed. On appeal, counsel submits a brief arguing that the beneficiary qualifies for O-1 classification.

According to the regulation at 8 C.F.R. § 292.4, appearance as attorney or representative in a visa petition proceeding must be filed on the appropriate form and must be signed by the petitioner. The appropriate form is the G-28. Both the Form I-129 and the Form I-290B in this matter were filed with the Form G-28 signed by the attorney and the beneficiary. There is no Form G-28 in the record that was signed by the petitioner. Only the petitioner, and not the beneficiary has legal standing to appeal a decision. *See* 8 C.F.R. § 103.3(a)(1)(iii)(B).

8 C.F.R. 103.3(a)(2)(v) states:

Improperly filed appeal – (A) Appeal filed by person or entity not entitled to file it – (1) Rejection without refund of filing fee. An appeal filed by a person not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

The appeal has not been filed by the petitioner, or by any entity with legal standing in the proceeding, but rather, by an attorney who has not submitted a properly executed notice authorizing his appearance in this matter. Therefore, the appeal has not been properly filed and must be rejected.

ORDER: The appeal is rejected.