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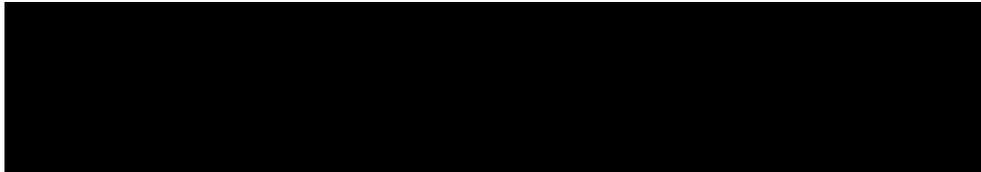
U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536



U.S. Citizenship
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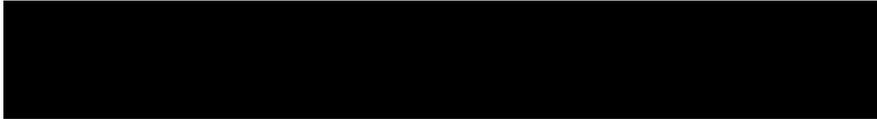
D8



FEB 11 2004

FILE: SRC 03 129 53135 Office: TEXAS SERVICE CENTER Date:

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.

Mari Johnson

 Robert P. Wiemann, Director
Administrative Appeals Office

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

A Form I-129, Petition for a Nonimmigrant Worker, was filed on April 7, 2003, in the name of the University of Texas Southwestern Medical Center, Dallas, seeking to extend 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 pathology, in order to continue to employ him as an assistant professor in the United States for a period of one year at an annual salary of \$114,500.

The acting director denied the petition, finding that the petitioner failed to establish that the beneficiary is one of the small percentage who has risen to the very top of his field of endeavor. The beneficiary appealed the acting director's decision. A Form G-28, Notice of Entry of Appearance as Attorney or Representative, signed by the beneficiary, was filed with the appeal now before the AAO.

On appeal, counsel submits a ten-page brief asserting that the beneficiary qualifies for O-1 classification.

According to the regulation at 8 C.F.R. § 292.4(a), in order for the appearance to be recognized by CIS, the appearance as attorney or representative in a visa petition proceeding must be filed on the appropriate form and must be signed by the applicant or the petitioner in the proceeding authorizing representation. The appropriate form is the G-28. The appeal in this matter was filed with the Form G-28 signed by the attorney and the beneficiary.

The regulation at 8 C.F.R. § 103.3(a)(1)(iii)(B) provides, in pertinent part, that:

For purposes of [appeals], *affected party* . . . means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part:

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 or entity not entitled to file it must be rejected as improperly filed. Only the affected party or attorney of record may file an appeal.

The appeal has not been filed by the petitioner, nor by any entity with legal standing in the proceeding; but rather, by an attorney who is representing the beneficiary. Therefore, the appeal has not been properly filed and must be rejected.

ORDER: The appeal is rejected.