



U.S. Citizenship
and Immigration
Services

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BG

MAR 29 2007

FILE: WAC 04 115 53766 Office: CALIFORNIA SERVICE CENTER

Date:

IN RE: Petitioner:
Beneficiary:



PETITION: Immigrant petition for Alien Worker as a Skilled Worker or Professional pursuant to section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

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, Chief
Administrative Appeals Office

CC:



DISCUSSION: The preference visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

The petitioner is a hand car wash – professional detail center. It seeks to employ the beneficiary permanently in the United States as a buffer – 50%, manager – 50%. As required by statute, the petition is accompanied by a Form ETA 750, Application for Alien Employment Certification, approved by the Department of Labor. The director determined that the petitioner had not established that the beneficiary is qualified to perform the duties of the proffered position with two years of qualifying employment experience as a buffer – 50%, manager – 50%. The director denied the petition accordingly.

The appeal was filed on September 12, 2005, by the petitioner as captioned “In the matter of [REDACTED] signed by attorney Christopher Ingram who upon the Form I-290B indicated that “I am an attorney or representative, and I represent: [REDACTED]. Submitted with the appeal form was a Citizenship and Immigration Services (CIS) Form G-28 signed by [REDACTED] and the statement “I hereby enter my appearance as attorney ..., and, at the request of the following named person (s): [REDACTED] with the check box “Beneficiary” selected. [REDACTED] is the beneficiary.

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

(B) *Meaning of affected party.* For purposes of this section and sections 103.4 and 103.5 of this part, *affected party* (in addition to [CIS]) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

The regulation at 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 or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the [CIS] has accepted will not be refunded.

The appeal was not filed by the petitioner, nor by any entity with legal standing in this proceeding, but by the beneficiary. The beneficiary of a visa petition is not a recognized party in a proceeding. 8 C.F.R. § 103.2(a)(3). Only the affected party is permitted to file an appeal. 8 C.F.R. § 103.3(a)(2)(i).

As the beneficiary and his representative are not recognized parties, the petitioner is not authorized to file an appeal. 8 C.F.R. § 103.3(a)(2)(v)(A) and (B).

Therefore, the appeal has not been properly filed, and must be rejected.

ORDER: The appeal is rejected.