

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

U.S. Department of Homeland Security
U. S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



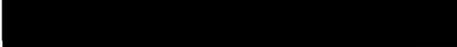
**U.S. Citizenship
and Immigration
Services**

B6



FILE: 
EAC 03 134 52820

Office: TEXAS SERVICE CENTER Date: **APR 01 2010**

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:



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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, revoked the approval of the third preference visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A).

The petitioner is a carpentry business. It seeks to employ the beneficiary permanently in the United States as a carpenter. As required by statute, a labor certification approved by the United States Department of Labor (DOL) accompanied the petition. The director determined that the petitioner had not demonstrated its compliance with DOL advertising and recruiting requirements and revoked the petition's approval accordingly. The director concluded that the application for labor certification involved willful misrepresentation.

The record of proceeding contains a properly executed Form G-28 (Form G-28), Notice of Entry of Appearance as Attorney or Representative for the beneficiary's representative. Additionally, the Form I-290B appellate form was filed and signed by the beneficiary's counsel. United States Citizenship and Immigration Services' (USCIS) regulations specifically prohibit a beneficiary of a visa petition, or a representative acting on a beneficiary's behalf, from filing an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B). No evidence suggests that the petitioner consented to the filing of the appeal.

As the appeal was not properly filed, and it is unclear whether or not the petitioner consented to having an appeal filed on its behalf, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).¹

ORDER: The appeal is rejected as improperly filed.

¹ Alternatively, the appeal may be summarily dismissed. On appeal, the beneficiary's counsel stated that USCIS erred as a matter of fact and law in revoking the previous approval and that verification would be submitted to the AAO within 30 days. The beneficiary's counsel dated the appeal May 13, 2009. As of this date, more than 10 months later, the AAO has received nothing further, and the regulation requires that any brief shall be submitted directly to the AAO. 8 C.F.R. §§ 103.3(a)(2)(vii) and (viii). As stated in 8 C.F.R. § 103.3(a)(1)(v), an appeal shall be summarily dismissed if the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. The beneficiary's counsel here has not specifically addressed the reasons stated for denial and has not provided any additional evidence. The appeal may therefore be summarily dismissed.