



U.S. Citizenship
and Immigration
Services



B6

DATE: **DEC 05 2012** OFFICE: CALIFORNIA SERVICE CENTER FILE: 

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The service center director denied the immigrant visa petition. The matter is now on appeal before the Administrative Appeals Office (AAO). The appeal will be rejected as improperly filed.

The petitioner submitted an Immigrant Petition for Alien Worker (Form I-140) on July 3, 2007, to employ the beneficiary in what it designates as a director of quality assurance engineering position. However, upon subsequent review of the record, the director issued a Notice of Intent to Deny (NOID) finding that (1) the beneficiary's degree is not in the required field of study, and (2) the beneficiary does not have the required three years of experience. Counsel for the beneficiary responded to the NOID, but the director ultimately denied the petition on the grounds identified above. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

Counsel for the beneficiary, [REDACTED] filed and signed the Form I-290B in this matter. Although it was timely filed and accompanied by the required fee, the Entry of Appearance as Attorney or Representative (Form G-28) that was submitted was signed by the beneficiary, not by an authorized representative of the petitioner. The beneficiary filed the only documents submitted on appeal, which are a new Notice of Entry of Appearance as Attorney or Accredited Representative (Form G-28) signed by the beneficiary and a Notice of Appeal or Motion (Form I-290B) signed by the beneficiary's counsel. The record of proceeding does not contain a new Form G-28 signed by the petitioner for the beneficiary's counsel permitting his appearance on its behalf in the Form I-290B proceeding before the AAO.¹

USCIS regulations specifically prohibit a beneficiary of a visa petition, or a representative acting on a beneficiary's behalf, from filing a petition; the beneficiary of a visa petition is not a recognized party in a proceeding. 8 C.F.R. § 103.2(a)(3). Moreover, the regulations at 8 C.F.R. § 103.3(a)(1)(iii)(B) specifically state that a beneficiary of a visa petition is not an affected party and does not have any legal standing in a proceeding. As the beneficiary and his representative have no legal standing in this proceeding, counsel for the beneficiary is not authorized to file the appeal on behalf of the petitioner, and it must therefore be rejected as improperly filed. 8 C.F.R. § 103.3(a)(1)(iii)(B); 8 C.F.R. § 103.3(a)(2)(v)(A)(1); 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(i).

As the appeal was not properly filed, it must be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

ORDER: The appeal is rejected.

¹ Effective March 4, 2010, the regulation at 8 C.F.R. § 292.4(a) requires that a "new [Form G-28] must be filed with an appeal filed with the [AAO]." Title 8 C.F.R. § 292.4(a) further requires that the Form G-28 "must be properly completed and signed by the petitioner, applicant, or respondent to authorize representation in order for the appearance to be recognized by DHS."