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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship
and Immigration
Services

B2



DATE: **FEB 24 2012** Office: TEXAS SERVICE CENTER FILE: 

IN RE: Petitioner: 
Beneficiary: 

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

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.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you.


Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant 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 as improperly filed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability in athletics. The director determined that the petitioner had not established the requisite extraordinary ability through extensive documentation and sustained national or international acclaim.

The most recent Form G-28, Notice of Entry of Appearance of Attorney, submitted in this matter was signed by [REDACTED] on December 7, 2011. The record also includes a Form G-28 signed by [REDACTED] on April 30, 2010. The regulation at 8 C.F.R. § 1.2 provides:

Attorney means any person who is eligible to practice law in, and is a member in good standing of the bar of, the highest court of any State, possession, territory, or Commonwealth of the United States, or of the District of Columbia, and is not under any order suspending, enjoining, restraining, disbaring, or otherwise restricting him or her in the practice of law.

The record of proceeding indicates that [REDACTED] filed the appeal in this case on July 26, 2010. Specifically, [REDACTED] signed the Form I-290B, Notice of Appeal or Motion, on July 21, 2010. The two Forms G-28 submitted by [REDACTED] indicate that he is an attorney in good standing in Pennsylvania. According to the Disciplinary Board of the Supreme Court of Pennsylvania, however, [REDACTED] current status is "Administrative Suspension."¹

On January 20, 2012, the AAO issued a notice to [REDACTED] advising him to identify the provision(s) of 8 C.F.R. § 103.2(a)(3) under which he was qualified to represent others in U.S. Citizenship and Immigration Services proceedings. The AAO also issued a copy to the petitioner. Pursuant to the regulation at 8 C.F.R. § 292.4(a), [REDACTED] was also requested to forward an explanation accompanied by proof of his qualifications under the provision(s) of 8 C.F.R. § 103.2(a)(3) upon which he relied to file the appeal on July 26, 2010. [REDACTED] was afforded 15 days in which to submit the requested documentation, but he failed to respond to the AAO's notice.

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 Service has accepted will not be refunded.

In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the complete appeal within 30 days of after service of the unfavorable decision. The regulation at 8 C.F.R. § 103.3(a)(1)(iii)(B) states that the “‘affected party’ (in addition to the Service) means the person or entity with legal standing in a proceeding. . . . An affected party may be represented by an attorney or representative in accordance with part 292 of this chapter.”

The Form I-290B was filed by [REDACTED] on July 26, 2010, but there is no evidence showing that he was eligible on that date, or that he remains eligible, to practice law in Pennsylvania, and that [REDACTED] is, or was at the time of filing, a member in good standing of the bar of the Supreme Court of Pennsylvania. Therefore, as the appeal has not been filed by anyone with legal standing in the proceeding or by an attorney who meets the requirements of the regulation at 8 C.F.R. §§ 1.2 and 292, the appeal must be rejected as improperly filed.

ORDER: The appeal is rejected.