



U.S. Citizenship
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FILE: [REDACTED] Office: VERMONT SERVICE CENTER Date: **OCT 14 2005**
EAC 02 239 52397

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Alien Worker as Outstanding Professor or Researcher Pursuant to
Section 203(b)(1)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(B)

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 employment-based immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The petitioner is a cancer research institute. It seeks to classify the beneficiary as an outstanding researcher pursuant to section 203(b)(1)(B) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(B). The petitioner seeks to employ the beneficiary in the United States as a biomedical research scientist. The director determined that the petitioner had not established that the beneficiary is recognized internationally as outstanding in his academic field, as required for classification as an outstanding researcher.

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 the Service) 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 Service has accepted will not be refunded.

The appeal has not been filed by the petitioner, nor by any entity with legal standing in the proceeding, but rather by the beneficiary.¹ Therefore, the appeal has not been properly filed, and must be rejected.

ORDER: The appeal is rejected.

¹ An attorney filed the instant appeal. The record contains two Forms G-28, Notice of Entry of Appearance, one signed by the beneficiary and the other listing the petitioner as a represented party, but unsigned. The regulation at 8 C.F.R. § 292.4(a) provides, in pertinent part, that a "notice of appearance entered in application or petition proceedings must be signed by the applicant or petitioner to authorize representation in order for the appearance to be recognized by [Citizenship and Immigration Services]." On September 15, 2005, in accordance with the regulation at 8 C.F.R. § 103.2(a)(2)(v)(A)(2), this office advised the beneficiary's attorney by facsimile that the record lacked a properly filed Form G-28 signed by the petitioner. The facsimile advised the beneficiary's attorney that failure to respond within 15 days could result in the rejection of the appeal as improperly filed. As of this date, more than the requisite 15 days later, the beneficiary's attorney has failed to provide a properly filed G-28 signed by the petitioner. Thus, the beneficiary's attorney does not represent the petitioner in these proceedings.