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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

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[REDACTED]

FILE:

[REDACTED]

Office: TEXAS SERVICE CENTER

Date: JUN 22 2009

SRC 08 070 50174

IN RE:

Petitioner:

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:

[REDACTED]

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.

  
John F. Grissom

Acting Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected. The AAO will return the matter for further action by the director.

The petitioner is a higher education institution. It seeks to classify the beneficiary as an outstanding professor pursuant to section 203(b)(1)(B) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(B).

Part 1 of the Form I-140 petition identifies the University of Puerto Rico as the petitioner. An applicant or petitioner must sign his or her application or petition. 8 C.F.R. § 103.2(a)(2). In this instance, Part 8 of the Form I-140, "Signature," was signed by any official of the university, and not the alien beneficiary. In fact, an alien beneficiary may not self-petition under the classification sought. 8 C.F.R. § 204.5(i)(1).

The regulation at 8 C.F.R. § 103.3(a)(1)(iii) states that, for purposes of appeals, certifications, and reopening or reconsideration, "affected party" (in addition to U.S. Citizenship and Immigration Services (USCIS)) 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 that 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 USCIS has accepted will not be refunded.

Here, the appeal was filed not the petitioner, nor by any attorney or accredited representative of the petitioner, but rather the alien beneficiary, who has no standing to file an appeal on the petitioner's behalf. We must, therefore, reject the appeal as improperly filed. Nevertheless, the director sent the notice of decision (as well as the earlier request for additional evidence) not to the petitioning university, but to the alien himself.

The regulation at 8 C.F.R. § 103.2(b)(19) requires that notification of written decisions be sent to the petitioner. Here, because the director sent the notices to the alien beneficiary, rather than to the petitioning university, the director has arguably never served the notice of denial. Thus, the petitioning university has never had the opportunity to file a timely appeal. The director must reissue the denial notice in order to give the actual petitioner that opportunity.

The appeal has not been filed by the petitioner, or by any entity with legal standing in the proceeding, but rather by the alien beneficiary. Therefore, the appeal has not been properly filed, and must be rejected. The director must serve a newly dated copy of the decision, properly addressed to the petitioner.

**ORDER:** The appeal is rejected. The matter is returned to the director for the limited purpose of the reissuance of the decision.