



U.S. Citizenship
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Services

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FILE: [REDACTED]
SRC 06 122 52108

Office: TEXAS SERVICE CENTER

Date: SEP 05 2007

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

PETITION: Immigrant Petition for Alien Worker as a Multinational Executive or Manager Pursuant to Section 203(b)(1)(C) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(C)

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.


Robert R. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as improperly filed pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

The petitioner is a Florida corporation that seeks to employ the beneficiary as its president and chief executive officer. Accordingly, the petitioner endeavors to classify the beneficiary as an employment-based immigrant pursuant to section 203(b)(1)(C) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(C), as a multinational executive or manager. After reviewing the evidence submitted, the director denied the petition based on three independent grounds for ineligibility: 1) the petitioner failed to establish that the beneficiary was employed abroad in a qualifying managerial or executive capacity; 2) the petitioner failed to establish that it would employ the beneficiary in a managerial or executive capacity; and 3) the petitioner failed to provide sufficient documentation establishing that it has a qualifying relationship with the beneficiary's claimed foreign employer.

On September 5, 2006, the above named representative filed a Form I-290B with the service center on behalf of the beneficiary purporting to appeal the decision of the director dated August 3, 2006. The Form I-290B was accompanied by a Form G-28, Notice of Entry of Appearance as Attorney or Representative, which was signed by the above named representative and by the beneficiary. The Form G-28 contained no information pertaining to the petitioner. Rather, the beneficiary was identified as the represented party. However, Citizenship and Immigration Services 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 to a proceeding. 8 C.F.R. § 103.2(a)(3). Therefore, in light of counsel's entry of his appearance only on behalf of the beneficiary, the AAO cannot accept his filing of an appeal on behalf of the petitioner. As such, the appeal was improperly filed, and it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

Furthermore, even if proper documentation were submitted to show counsel's representation of both the petitioner and the beneficiary, thus resulting in a properly filed Form I-290B, the appeal would have been summarily dismissed due to other deficiencies. More specifically, the regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part:

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

In the present matter, counsel stated that the denial of the petition was based on "incorrect assumptions." However, he did not specifically identify which of the director's statements he found to be erroneous or explain the reasons for the appeal. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the petitioner has not sustained that burden.

Regardless, the affected party or an authorized representative thereof did not properly file the Form I-290B. Therefore, the appeal is hereby rejected.

ORDER: The appeal is rejected as improperly filed.