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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
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FILE: [REDACTED]
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OFFICE: NEBRASKA SERVICE CENTER

Date: SEP 28 2009

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 BENEFICIARY:



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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. 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 \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. 103.5(a)(1)(i).

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the immigrant visa petition. The matter is currently before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as improperly filed.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(i) states in part the following:

If an appeal is filed by an attorney or representative without a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) entitling that person to file the appeal, the appeal is considered improperly filed.

In the instant matter, [REDACTED] filed an appeal as counsel on behalf of the beneficiary subsequent to the director's adverse decision with regard to the petitioner's Form I-140.¹ However, the record does not contain a Form G-28 showing that [REDACTED] is authorized to undertake representation on the petitioner's behalf. The requirement for the submission of a Form G-28 is expressly stated both in the regulations and in the Form I-290B, Notice of Appeal to the AAO. Although [REDACTED] submitted a properly executed Form G-28 along with the Form I-140, she is not the attorney that filed the petitioner's Form I-290B, Notice of Appeal or Motion. Rather, [REDACTED] the individual that did file the Form I-290B on behalf of the petitioner is not the petitioner's authorized representative.

U.S. 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 in a proceeding. 8 C.F.R. § 103.2(a)(3). As the beneficiary and his representative are not recognized parties, counsel is not authorized to file an appeal, 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).

Accordingly, the record in the present matter shows that the appeal was improperly filed and must be rejected. See 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

ORDER: The appeal is rejected.

¹ Counsel submitted a cover page dated November 13, 2008 along with submissions in support of the appeal. Counsel noted that the appeal was filed "on behalf of our client [REDACTED],]" thereby indicating counsel's understanding that he was representing the beneficiary, not the petitioner.