



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

**identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy**

B6

[Redacted]

FILE:

SRC-05-190-51531

Office: TEXAS SERVICE CENTER

Date: AUG 21 2007

IN RE:

Petitioner:
Beneficiary:

[Redacted]

PETITION: Immigrant petition for Alien Worker as a Skilled Worker or Professional pursuant to section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

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.

Robert P. Wiemann, Chief
Administrative Appeals Office

Cc: James H. Tipler, Esq., The Immigration Centers, P. O. Box 5558, Destin, FL 32540

DISCUSSION: The preference visa petition was denied by the Acting Director (Director), Texas Service Center, and now is before the Administrative Appeals Office (AAO). The appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A).

The petitioner is a construction company and seeks to employ the beneficiary as a plasterer. The director denied the petition finding that the petitioner did not establish its continuing ability to pay the proffered wage from the priority date to the present.

The instant appeal was filed late on February 28, 2006 through a lawyer representing the beneficiary.¹ The Form G-28, Entry of Appearance as Attorney or Representative, signed by counsel and the beneficiary and submitted in conjunction with the Form I-290B, indicates that counsel represents [REDACTED], the instant beneficiary. Citizenship and Immigration Services' (CIS) regulations specifically prohibit a beneficiary of a visa petition, or a representative acting on a beneficiary's behalf, from filing an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B). The record does not contain any Form G-28 signed by both counsel and the petitioner's authorized representative. As the appeal was not properly filed, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

The record of proceeding contains a properly executed Form G-28 signed by the petitioner's representative and an attorney different than the counsel filing the instant appeal. Since it is uncertain whether or not the petitioner obtained new counsel, a copy of this decision will be provided to the petitioner's last known counsel of record. A courtesy copy will also be provided to the beneficiary's counsel.

As the appeal was improperly filed, the appeal must be rejected.

ORDER: The appeal is rejected.

¹ The tardiness of the filing may have been excused due to extraordinary circumstance.