

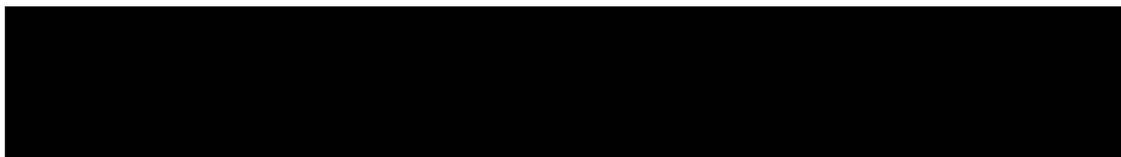


U.S. Citizenship
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Services

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FILE: [redacted] Office: TEXAS SERVICE CENTER Date: MAR 21 2007
SRC 05 175 51042

IN RE: Petitioner: [redacted]
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: 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.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office



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

The petitioner is a hospital. It seeks to employ the beneficiary permanently in the United States as a registered nurse. As required by statute, a Form ETA 750 Application for Alien Employment Certification accompanies the petition. That Form ETA 750 was not approved by the Department of Labor (DOL), which indicates that the petitioner is asserting that the instant petition should be processed pursuant to 20 C.F.R. § 656.5 Schedule A. The director determined that the petition was not accompanied by a valid prevailing wage determination or by evidence that the notice of the proffered position had been posted in accordance with the requirements of 20 C.F.R. § 656.10(d)(1) as required by the Schedule A process.

The beneficiary filed the Form I-290B appeal in this matter. 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 [CIS]) 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 was not filed by the petitioner or by any entity with legal standing in this proceeding, but by the beneficiary. The beneficiary of a visa petition is not a recognized party in a proceeding. 8 C.F.R. § 103.2(a)(3). Only the affected party is permitted to file an appeal. 8 C.F.R. § 103.3(a)(2)(i).

Therefore, the appeal has not been properly filed, and must be rejected.

ORDER: The appeal is rejected as improperly filed.