



U.S. Citizenship  
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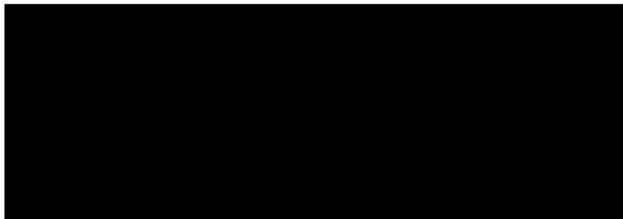
FILE: SRC 07 223 52393 Office: TEXAS SERVICE CENTER Date: AUG 10 2009



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:



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

The petitioner is a roofing firm. It seeks to employ the beneficiary permanently in the United States as a roofer. As required by statute, a labor certification approved by the Department of Labor accompanied the petition. The director determined that the petitioner had not demonstrated its continuing ability to pay the proffered wage beginning on the priority date of the visa petition and denied the petition accordingly.

The record of proceeding contains a properly executed Form G-28 (Form G-28), Notice of Entry of Appearance as Attorney or Representative, for the beneficiary's representative. U.S. Citizenship and Immigration Services' (USCIS) 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). No evidence suggests that the petitioner consented to the filing of the appeal. The petitioner's representative is a different person.<sup>1</sup>

As the appeal was not properly filed, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

**ORDER:** The appeal is rejected as improperly filed.

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<sup>1</sup> Counsel who submitted a Form G-28 for the beneficiary lists on Form I-290B that he is attorney for the petitioner, however, he did not submit Form G-28 to evidence this representation.