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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

PUBLIC COPY



U.S. Citizenship
and Immigration
Services

B6

[Redacted]

FILE: [Redacted]
EAC 02 096 51151

Office: VERMONT SERVICE CENTER

Date: **MAY 13 2009**

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.

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 or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).


John F. Grissom
Acting Chief, Administrative Appeals Office

CC: [Redacted]

DISCUSSION: The preference visa petition was approved by the Director, Vermont Service Center, on July 18, 2002, and subsequently revoked on July 31, 2007. 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 commercial cleaning company. It seeks to employ the beneficiary as a supervisor, janitorial services. As required by statute, the petition was accompanied by an individual labor certification, the Application for Alien Employment Certification (Form ETA 750), approved by the Department of Labor (DOL). The director revoked the approval of the petition pursuant to section 204(c) of the Immigration and Nationality Act, finding that the beneficiary had conspired to enter into a fraudulent marriage for the purpose of evading immigration laws.

The Form G-28, Entry of Appearance as Attorney or Representative, submitted in conjunction with the Form I-290B, indicates that the attorney filing the instant appeal represents the beneficiary and the beneficiary's new employer, MES Building Services, Inc. The record does not contain a Form G-28 signed by both counsel and the petitioner's authorized representative. Only an affected party, or an authorized representative, may file an appeal. 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). 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 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.

ORDER: The appeal is rejected as improperly filed.