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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  
and Immigration  
Services**

B6



**MAY 21 2009**

FILE: [REDACTED] Office: TEXAS SERVICE CENTER Date:  
SRC 06 209 51841

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.

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 denied by the Director, Texas Service Center, and 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 construction company. It seeks to employ the beneficiary as a structural steel worker. 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 determined that the petitioner had not established that it had the continuing ability to pay the beneficiary the proffered wage beginning on the priority date of the visa petition. The director denied the petition accordingly.

Counsel indicates on the Form I-290B, Notice of Appeal to the Administrative Appeals Office, that he represents the petitioner. However, the Form G-28, Entry of Appearance as Attorney or Representative, submitted in conjunction with the Form I-290B, is not signed by an authorized representative of the petitioner. Therefore, the Form G-28 is not properly executed. 8 C.F.R. § 292.4(a). Although the record contains a Form G-28 signed by counsel and the beneficiary, 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). If an appeal is filed by an attorney or representative without a properly executed Form G-28 entitling that person to file the appeal, the appeal is considered improperly filed. 8 C.F.R. § 103.3(a)(2)(v)(A)(2).

As the appeal was not properly filed, it will be rejected.<sup>1</sup> 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> Even if this appeal were not being rejected as improperly filed, it would be summarily dismissed. Counsel to the beneficiary failed to specifically address the director's analysis of the evidence, and did not furnish any additional evidence. As stated in 8 C.F.R. § 103.3(a)(1)(v), any appeal that fails to specifically identify any erroneous conclusion of law or statement of fact will be summarily dismissed. Counsel indicated on the Form I-290B, Notice of Appeal or Motion, that a brief and/or additional evidence would be submitted to the AAO within 30 days. **However, no such brief or evidence has been received by the AAO. The regulation at 8 CFR §§ 103.3(a)(2)(vii) and (viii) states that an affected party may make a written request to the AAO for additional time to submit a brief and that, if the AAO grants the affected party additional time, it may submit the brief directly to the AAO.**