

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **APR 05 2013** OFFICE: TEXAS SERVICE CENTER

FILE: [REDACTED]

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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

Elizabeth McCormack

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center (director), denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner describes itself as a medical office. It seeks to permanently employ the beneficiary in the United States as a medical research specialist. The petitioner requests classification of the beneficiary as a professional or skilled worker pursuant to section 203(b)(3)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(3)(A).

The director's decision denying the petition concludes that petitioner did not establish that it conducted a bona fide recruitment effort to fill the proffered position with a U.S. worker. The director further stated that the record indicated fraud or willful misrepresentation of a material fact involving the labor certification application.

The appeal was filed by [REDACTED] who did not submit a Form G-28, Notice of Entry of Appearance as Attorney or Representative signed by the petitioner. On the Form I-290B, Notice of Appeal or Motion, [REDACTED] claimed to represent the petitioner as an attorney or accredited representative acting on an individual case basis at the request of the petitioner.

The regulation governing representation in filing immigration petitions and/or applications with United States Citizenship and Immigration Services (USCIS) is found at 8 C.F.R. § 103.2(a)(3), which provides in pertinent part that:

(3) *Representation.* An applicant or petitioner may be represented by an attorney in the United States, as defined in § 1.1(f) of this chapter, by an attorney outside the United States as defined in § 292.1(a)(6) of this chapter, or by an accredited representative as defined in § 292.1(a)(4) of this chapter.

The regulation at 8 C.F.R. § 1.1(f) states:

The term *attorney* means any person who is eligible to practice law in, and is a member in good standing of the bar of, the highest court of any State, possession, territory, or Commonwealth of the United States, or of the District of Columbia, and is not under any order suspending, enjoining, restraining, disbaring, or otherwise restricting him or her in the practice of law.

The regulation at 8 C.F.R. § 292.1(a)(6) encompasses the following type of foreign attorneys:

Attorneys outside the United States. An attorney, other than one described in 8 C.F.R. 1.1(f), who is licensed to practice law and is in good standing in a court of general jurisdiction of the country in which he or she resides and who is engaged in such practice, may represent parties in matters before [the Department of Homeland

Security (DHS)], provided that he or she represents persons only in matters outside the geographical confines of the United States as defined in section 101(a)(38) of the Act, and that the DHS official before whom he or she wishes to appear allows such representation as a matter of discretion.

The regulation at 8 C.F.R. § 292.1(a)(4) defines an accredited representative as a person representing an organization described in 8 C.F.R. § 292.2 who has been accredited by the Board of Immigration Appeals (BIA). The regulation at 8 C.F.R. § 292.2 describes the processes by which the BIA (1) recognizes an organization as authorized to provide accredited representatives, and (2) accredits a person as a representative of a recognized organization.

On March 14, 2013, this office issued a notice indicating that effective March 4, 2010, the regulation at 8 C.F.R. § 292.4(a) required that a new Form G-28 “must be filed with an appeal filed with the [AAO].” 8 C.F.R. § 292.4(a) further requires that the Form G-28 “must be properly completed and signed by the petitioner, applicant or respondent to authorize representation in order for the appearance to be recognized by DHS.” The record, however, does not contain a properly executed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, signed by [REDACTED] and by an authorized official of the petitioning entity dated subsequent to the director’s decision and submitted to authorize [REDACTED] as the representative of the petitioner on appeal. As of the date of this decision, the AAO has not received a response to the request for a new Form G-28. Without a new, valid, and fully executed Form G-28, signed by an official of the petitioning entity, authorizing [REDACTED] to represent the petitioner, we cannot consider the appeal to have been properly filed. Therefore, we cannot consider [REDACTED] to be the petitioner’s attorney or representative of record.

The appeal has not been filed by the petitioner, an authorized representative or any entity with legal standing in the proceeding; but rather by an unauthorized person. Therefore, the appeal has not been properly filed and must be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

ORDER: The appeal is rejected.