



U.S. Citizenship
and Immigration
Services

(b)(6)



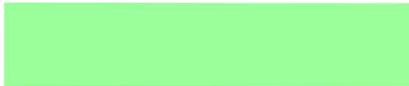
DATE: OFFICE: TEXAS SERVICE CENTER

APR 26 2013

FILE:



IN RE: Petitioner:
Beneficiary:



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,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center (director), revoked the approval of the employment-based immigrant visa petition. 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)(I).

The petitioner describes itself as a property management business. It seeks to permanently employ the beneficiary in the United States as a building maintenance worker. 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 revoked the approval of the immigrant petition because the petitioner did not have the ability to pay the proffered wage and the beneficiary had made a willful misrepresentation in relation to his work experience.

On August 10, 2010, [REDACTED] filed a Form I-290B to appeal the director's adverse decision. For appeals and motions filed on or after March 4, 2010, the regulation at 8 C.F.R. § 292.4(a) requires that a new Form G-28 "must be filed with an appeal filed with the [AAO]." The regulation at 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." Counsel filed a Form G-28 signed by the petitioner on December 11, 2009, prior to issuance of the decision from which counsel sought appeal. On January 22, 2013, the AAO sent a facsimile to counsel requesting that he submit a properly executed Form G-28 for the petitioner in the instant case. In response, counsel forwarded a facsimile requesting withdrawal of the appeal as the petitioner had been acquired by another entity which did not wish to pursue the appeal. Counsel's response did not include an executed Form G-28 authorizing him to represent the petitioner on appeal.¹

The record does not contain a properly executed new Form G-28, with a revision date on or after April 22, 2009, signed by both counsel and the petitioner for the appeal. Therefore, we cannot consider counsel to be the petitioner's attorney of record. An appeal that is filed without a properly executed Form G-28 is considered an improperly filed appeal and it must be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(i).²

Furthermore, on February 21, 2013, the AAO sent the petitioner a notice of intent to dismiss and notice of derogatory information (NOID/NODI). The AAO informed the petitioner that it was unable to accept counsel's withdrawal of the appeal as counsel had failed to submit a Form G-28 authorizing his representation of the petitioner on appeal. The AAO also informed the petitioner that the instant appeal may be moot because it was no longer in business. The NOID/NODI allowed the

¹ We further note that the record does not contain any evidence to establish that the petitioner has a successor-in-interest on the instant Form I-140 petition.

² The AAO also notes the regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(iii), which provides that an appeal may be considered properly filed as of its original filing date only if the attorney or representative submits a properly executed Form G-28 entitling that person to file the appeal.

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petitioner 30 days in which to submit a response. The AAO informed the petitioner that failure to respond to the NOID/NODI would result in a dismissal of the appeal.

As of the date of this decision, the petitioner has not responded to the AAO's NOID/NODI. The failure to submit requested evidence that precludes a material line of inquiry shall be grounds for denying the petition. See 8 C.F.R. § 103.2(b)(14). As the petitioner failed to respond to the NOID/NODI, the appeal will be summarily dismissed as abandoned pursuant to 8 C.F.R. § 103.2(b)(13)(i).

ORDER: The appeal is rejected.