

(b)(6)

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

DATE:

JAN 24 2013

OFFICE: TEXAS SERVICE CENTER

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 for

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 construction company. It seeks to permanently employ the beneficiary in the United States as a carpenter. 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 the petitioner has not established its ability to pay the proffered wage.

The appeal was filed by [REDACTED] who submitted a Form G-28, Notice of Entry of Appearance as Attorney or Representative, signed by the petitioner. [REDACTED] claimed to represent the petitioner.¹

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

¹ On Form G-28, box 4 (other) was checked and the following statement was included:

I appoint [REDACTED] and/or it's [sic] staff to make any decision or sign any writing of their or my own drafting that in their judgement [sic] serves my interest. This authority is without reservation and without limit.

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 September 27, 2012, this office issued a notice to [REDACTED] with a copy to the petitioner, quoting the above regulations and advising that [REDACTED] according to the checked box on the Form G-28 and a review of the most recent Roster of Recognized Organizations and Accredited Representatives maintained by the Executive Office for Immigration Review, available on the Internet at <http://www.usdoj.gov/eoir/statspub/raroster.htm> (accessed December 18, 2012), was not an attorney or an accredited representative of an organization recognized by the BIA. [REDACTED] was provided 15 days in which to reply and advised that failure to respond would result in the appeal being rejected as improperly filed. The AAO did not receive a response from [REDACTED] but did receive a response from the petitioner's address on October 18, 2012. The response indicates that [REDACTED] is unknown to the petitioner. [REDACTED] has not established that he is an accredited representative by the BIA under the regulation at 8 C.F.R. § 292.1(a)(4) through the procedures set forth by the regulation at 8 C.F.R. § 292.2.

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.