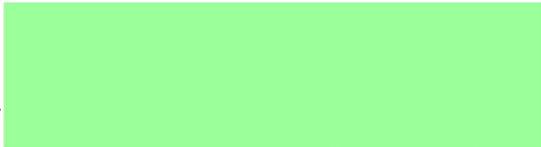


(b)(6)

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 **FEB 14 2013**

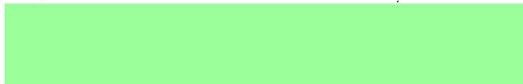
Office: CALIFORNIA SERVICE CENTER

FILE: 

IN RE:

Petitioner:

Beneficiary:



PETITION: Nonimmigrant Petition for Religious Worker Pursuant to Section 101(a)(15)(R)(1) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(R)(1)

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, California Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected or, in the alternative, dismissed.

The petitioner is a Sikh temple. It seeks to classify the beneficiary as a special immigrant religious worker pursuant to section 101(a)(15)(R)(1) of the Act, to perform services as a priest. The director determined that the petitioner had not established how it will compensate the beneficiary.

The regulation at 8 C.F.R. § 103.2(a)(1) provides:

Filing. (1) Preparation and submission. Every benefit request or other document submitted to DHS must be executed and filed in accordance with the form instructions . . . such instructions are incorporated into the regulations requiring its submission.

The instructions for the Form I-290B, Notice of Appeal or Motion, advise the appellant that:

If you wish, you may be represented at no expense to the U.S. Government by an attorney or other duly authorized representative. Your attorney or representative must submit a Form G-28 with the appeal or motion. If the appeal or motion is filed without a properly executed Form G-28, it will be dismissed or rejected.

Additionally, the regulation at 8 C.F.R. § 292.4(a), as well as the instructions to the Form G-28, provides that:

An appearance must be filed on the appropriate form as prescribed by DHS [Department of Homeland Security], by the attorney or accredited representative appearing in each case. The form 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 appearance will be recognized by the specific immigration component of DHS in which it was filed until the conclusion of the matter for which it was entered. *This does not change the requirement that a new form must be filed with an appeal filed with the Administrative Appeals Office of USCIS.* [Emphasis added.]

Finally, the regulation at 8 C.F.R. § 103.3(a)(1)(iii) states, in pertinent part:

(B) *Meaning of affected party.* For purposes of this section and §§ 103.4 and 103.5 of this part, *affected party* (in addition to the Service) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

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Only an affected party, a person or entity with legal standing, may file an appeal of an unfavorable decision. The Form I-290B is signed by [REDACTED]. However, [REDACTED] did not submit a Form G-28 with the appeal authorizing him to act on behalf of the petitioner. Rather, [REDACTED] provided a Form G-28 signed by the beneficiary of the petition.

As [REDACTED] has failed to provide a Form G-28 authorizing him to act on behalf of the petitioner in the appellate stage of this proceeding, he cannot be considered as the petitioner's legal representative. Accordingly, the appeal has not been filed by the petitioner or by any entity with legal standing in the proceeding. Therefore, the appeal has not been properly filed and must be rejected.

Furthermore, assuming *arguendo*, that [REDACTED] had standing to file this appeal, the appeal would be dismissed. By letter dated October 16, 2012, the petitioner notified USCIS that the beneficiary had left his job and the petitioner was unaware of his current location. The petitioner then requested that USCIS "cancel[]" the beneficiary's visa status. As the petitioner no longer intends to employ the beneficiary and to pursue further adjudication of the petition, the petitioner would not be able to establish the evidentiary requirements of the regulations at 8 C.F.R. § 214.2(r). Accordingly, the appeal would be dismissed for failure to establish eligibility for the nonimmigrant petition.

ORDER: The appeal is rejected.