



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: **APR 16 2014**

OFFICE: CALIFORNIA SERVICE CENTER FILE: [REDACTED]

IN RE:

Petitioner:
Beneficiary:

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

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition. The petitioner submitted an appeal of this denial to the Administrative Appeals Office (AAO). The AAO reviewed the record of proceeding and dismissed the appeal. The matter is again before the AAO on a motion to reopen. The motion will be dismissed.

The petitioner filed a Petition for a Nonimmigrant Worker (Form I-129) with the California Service Center on April 2, 2012. In the Form I-129 visa petition, the petitioner described itself as a home fashions business established in 1983. In order to employ the beneficiary in what it designates as a purchasing and product coordinator position, the petitioner seeks to classify her as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition on November 2, 2012, concluding that the petitioner failed to establish that the proffered position is a specialty occupation in accordance with the applicable statutory and regulatory provisions. Thereafter, the petitioner submitted an appeal of the decision. The AAO reviewed the evidence and determined that the record of proceeding contained insufficient evidence to establish that the petitioner would employ the beneficiary in a specialty occupation position. The AAO dismissed the appeal.

On May 30, 2013, Justin Jay filed a motion to reopen. The Form I-290B was not accompanied by a properly executed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, personally signed by both Justin Jay and by an authorized official of the petitioning entity.

The regulations state that a motion must be signed by the affected party or the attorney of record. 8 C.F.R. § 103.5(a)(1)(iii). In addition, the regulation at 8 C.F.R. § 103.5(a)(4) states that "[a] motion that does not meet applicable requirements shall be dismissed." Moreover, 8 C.F.R. § 292.4(a) provides the AAO with the right to require proof of authority to act in a representative capacity.

Pursuant to 8 C.F.R. § 292.4(a), the AAO sent [REDACTED] who submitted the Form I-290B, a notice requesting that he submit a properly executed Form G-28 signed by him and by an authorized official of the petitioning entity. The AAO requested that he respond within fifteen calendar days as proof of his authority to act in a representative capacity on behalf of the petitioner. However, [REDACTED] did not respond to this request within the allotted time period (or thereafter). The AAO therefore concludes that the motion was improperly filed and must be dismissed pursuant to 8 C.F.R. § 103.5(a)(4), which calls for the dismissal of a motion that does not meet applicable requirements.

ORDER: The motion is dismissed.