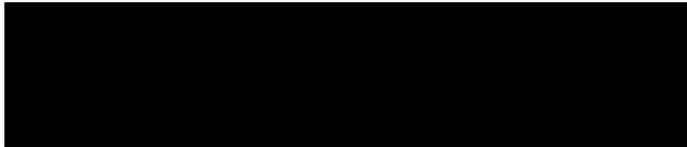


**Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**



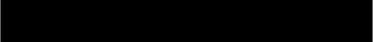
**U.S. Citizenship  
and Immigration  
Services**

**PUBLIC COPY**



*D2*

FILE: WAC 02 182 52328 Office: CALIFORNIA SERVICE CENTER Date: **MAR 18 2005**

IN RE: Petitioner:   
Beneficiary: 

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

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

*Robert P. Wiemann*

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The service center director denied the nonimmigrant visa petition and the Administrative Appeals Office (AAO) rejected a subsequent appeal. The matter is again before the AAO on motion to reopen or reconsider. The motion will be dismissed.

Only one Form G-28 (Notice of Entry of Appearance as Attorney or Representative) was filed with the appeal, and it was signed only by the beneficiary. Accordingly, the AAO properly rejected the appeal, pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(1), because it was not filed by a recognized party. *See* 8 C.F.R. § 103.3(a)(1)(iii)(B).

The attorney who filed the aforementioned Form G-28 now attempts to motion the AAO to reconsider and reverse its earlier decision, so as to consider the appeal and recognize him as the petitioner's counsel on that matter. In support of the motion, the attorney submits an additional Form G-28, signed by the petitioner and bearing a date earlier than the AAO's previous decision. Asserting that he was unable to secure this properly executed Form G-28 earlier because the petitioner's authorized representative was absent from the country, the attorney now requests the AAO to allow the late filing of the petitioner-signed Form G-28 because timely filing was "beyond the control of all affected parties."

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(2) allows for a later filing in a situation when an appeal is filed without a properly executed Form G-28. Here, however, the appeal was filed with a Form G-28 that was properly executed. The form indicated, however, that the attorney represented the beneficiary alone. In this situation, 8 C.F.R. § 103.3(a)(2)(v)(A)(1) governs: an appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. As the appeal was properly rejected, the motion is dismissed, and the appeal remains rejected.

**ORDER:** The motion is dismissed. The previous decision of the AAO, dated December 17, 2003, is affirmed. The petition is denied.