



U.S. Citizenship
and Immigration
Services

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

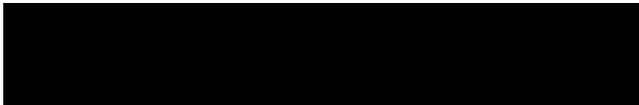
PUBLIC COPY



D2

FILE: SRC 04 227 51556 Office: TEXAS SERVICE CENTER Date: **JUL 21 2006**

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:

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, Director
Administrative Appeals Office

DISCUSSION: The service center director denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner is a chain of four restaurants that seeks to employ the beneficiary as a food service manager. The petitioner, therefore, endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition because the proffered position is not a specialty occupation. On appeal, counsel submits a brief.

The Form G-28 (Entry of Appearance as Attorney or Representative) that was submitted in conjunction with the appeal designates [REDACTED] as the petitioner's representative. The Form G-28 states that [REDACTED] is a "Canadian legal representative and member of the Bar of Quebec" and provides an address for [REDACTED] in Montreal, Canada. The Form G-28 does not indicate that [REDACTED] is a member of the bar of the Supreme Court of the United States or of the highest court of any State, territory, insular possession, or the District of Columbia. The Form G-28 also does not indicate that [REDACTED] is associated with a U.S. attorney or is an accredited representative of a non-profit religious, charitable, social service, or similar organization established in the United States and recognized by the Board of Immigration Appeals (BIA).

The Citizenship and Immigration Services (CIS) regulation at 8 C.F.R. § 103.2(a)(3) specifies that a petitioner may be represented "by an attorney in the United States, as defined in § 1.1(f) of this chapter [8 C.F.R. § 1.1(f)], by an attorney outside the United States as defined in § 292.1(a)(6) of this chapter [8 C.F.R. § 292.1(a)(6)], or by an accredited representative as defined in § 292.1(a)(4) of this chapter [8 C.F.R. § 292.1(a)(4)]." Pursuant to 8 C.F.R. § 292.1(a)(6), an attorney outside the United States "who is licensed to practice law and is in good standing in a court of general jurisdiction of the country in which he/she resides and is engaged in such practice" may represent persons "[p]rovided that he/she represents persons only in matters outside the geographical confines or the United States as defined in section 101(a)(38) of the Act¹, and that the Service official before whom he/she wishes to appear allows such representation as a matter of discretion."

The Form G-28 indicates that [REDACTED] is attempting to enter an appearance as an attorney outside the United States. [REDACTED] also entered an appearance as the petitioner's representative in filing the Form I-129 petition. Although there is no evidence in the record to indicate that the director objected to [REDACTED] representation of the petitioner at that time, the AAO finds that the [REDACTED] attempt to enter an appearance as the attorney for the petitioner does not comply with the requirements of 8 C.F.R. § 292.1(a)(6). The record shows that the petitioner is a U.S. restaurant chain that does business in South Carolina and adjudication of the petition was

¹ According to section 101(a)(38) of the Act, the geographical confines of the United States are limited to "the continental United States, Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands of the United States."

properly within the jurisdiction of the Texas Service Center of CIS. There is no evidence that [REDACTED] is an accredited representative or is otherwise eligible to represent petitioner in the United States.

CIS regulations specifically state that an appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. 8 C.F.R. § 103.3(a)(2)(v)(A)(1). Here, the person who filed the appeal was not entitled to do so. 8 C.F.R. § 103.2(a)(3). Accordingly, the AAO will reject the appeal pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

ORDER: The appeal is rejected.