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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

D2

FILE: EAC 08 104 51872 Office: VERMONT SERVICE CENTER Date: APR 02 2010

IN RE: Petitioner:  
Beneficiary:  
AKA:

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider, as required by 8 C.F.R. § 103.5(a)(1)(i).

  
Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The acting service center director denied the instant nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The record contains several submissions from an attorney. The record, however, contains no G-28 Notice of Entry of Appearance executed by an officer of the petitioner or any other indication that the petitioner consented to be represented by counsel. As such, the decision will be furnished only to the petitioner.

The petitioner is a manufacturer of marble and granite countertops. In order to employ the beneficiary as an estimator, the petitioner seeks 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, 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The acting director denied the petition on the basis that the beneficiary had been in H or L nonimmigrant status for the maximum six years permitted and did not otherwise qualify for an extension of her visa status. The acting director found, therefore, that 8 C.F.R. § 214.2(h)(4)(iii)(A) precludes approval of the instant visa petition.

The petitioner submitted a Form I-290B appeal in this matter. In the section reserved for the reason for filing the appeal, the petitioner inserted, "Attached."

On appeal, the petitioner submitted a statement, dated September 10, 2008, from the beneficiary. In that statement, the beneficiary claims to have been poorly represented by counsel. The beneficiary did not, however, address the basis for the acting director's decision of denial. No other evidence or brief was submitted, either with the form appeal or subsequently.

Any appeal based upon a claim of ineffective assistance of counsel requires: (1) that the claim be supported by an affidavit of the allegedly aggrieved respondent setting forth in detail the agreement that was entered into with counsel with respect to the actions to be taken and what representations counsel did or did not make to the respondent in this regard, (2) that counsel whose integrity or competence is being impugned be informed of the allegations leveled against him and be given an opportunity to respond, and (3) that the appeal or motion reflect whether a complaint has been filed with appropriate disciplinary authorities with respect to any violation of counsel's ethical or legal responsibilities, and if not, why not. *Matter of Lozada*, 19 I&N Dec. 637 (BIA 1988). The beneficiary's assertion that her previous attorney represented her poorly is not directly relevant to the basis for the acting director's decision of denial and, in any event, will not be considered.

The petitioner's statement on appeal contains no specific assignment of error. Moreover, the statement from the beneficiary, an unaffected party in this proceeding, could not be considered as meeting the petitioner's obligation to specifically identify an error, even if such an error had been specifically identified by the beneficiary in her statement.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part: “An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.”

The petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal and, therefore, the appeal must be summarily dismissed.

**ORDER:** The appeal is summarily dismissed.