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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

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FILE: WAC 07 126 53445 Office: CALIFORNIA SERVICE CENTER Date: **JAN 15 2010**

IN RE: Applicants: 

PETITION: Application to Extend Status of Dependents of 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 APPLICANTS:

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 Director, California Service Center, denied the application to extend a period of stay in nonimmigrant status, and dismissed a subsequent motion to reconsider. The matter is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The applicants seek to extend their period of stay as nonimmigrant dependents of an nonimmigrant specialty occupation worker pursuant to § 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(H). The director denied the application after the nonimmigrant petition of the applicants' spouse/father was denied, and dismissed a subsequent motion to reconsider.

The applicants' spouse/father is the beneficiary of a denied nonimmigrant petition filed by [REDACTED]. The Form I-290B filed in this matter was filed on behalf of Nexgen by its counsel, [REDACTED] not the applicants named in this proceeding. The AAO notes that the file does not contain a Form G-28, Notice of Entry of Appearance as Attorney or Representative, executed by the applicants authorizing counsel to act on their behalf in this matter.

Citizenship and Immigration Services regulations specifically prohibit the filing of an appeal by a person or entity not entitled to file it. 8 C.F.R. § 103.3(a)(2)(v)(A)(I). As stated above, Nexgen is not a party to the I-539 application that is the subject of this proceeding. Furthermore, as the application contains no Form G-28 signed by the applicants authorizing counsel to act on their behalf, counsel is not an authorized representative and is therefore not authorized to file this appeal. Consequently, the appeal must be rejected as improperly filed. 8 C.F.R. § 103.3(a)(2)(v)(A)(I); 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(i).

Even if a properly executed G-28 was on file in this matter, the regulations do not provide for an appeal of a Form I-539 denial. Furthermore, the authority to adjudicate appeals is delegated to the AAO by the Secretary of the Department of Homeland Security (DHS) pursuant to the authority vested in him through the Homeland Security Act of 2002, Pub. L. 107-296. *See* DHS Delegation Number 0150.1 (effective March 1, 2003); *see also* 8 C.F.R. § 2.1 (2003). The AAO exercises appellate jurisdiction over the matters described at 8 C.F.R. § 103.1(f)(3)(iii) (as in effect on February 28, 2003), with one exception - petitions for approval of schools under § 214.3 are now the responsibility of Immigration and Customs Enforcement (ICE). As H-4 status determinations are not listed as a matter over which the AAO has jurisdiction, the appeal must be rejected for this additional reason.

For the reasons stated herein, the applicants' appeal must be rejected.

ORDER: The appeal is rejected.