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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: [REDACTED] Office: VERMONT SERVICE CENTER Date: JUN 03 2010

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

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:



INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

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

The visa petition states that the petitioner is a construction company. In order to employ the beneficiary as an electrical systems technical specialist, 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 director denied the petition on the basis that the petitioner had failed to provide requested evidence and had failed to establish that the proffered position meets the definition of a specialty occupation as set forth at 8 C.F.R. § 214.2(h)(4)(iii)(A). The director also found that the beneficiary is not entitled to an extension of his stay beyond the six-year limit imposed by section 214(g)(4) of the Act, 8 U.S.C. § 1184(g)(4).

The regulation at 8 C.F.R. § 103.3(a)(1)(iii) states, in pertinent part:

(B) *Meaning of affected party.* For purposes of this section and sections 103.4 and 103.5 of this part, *affected party* (in addition to [USCIS]) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

The regulation at 8 C.F.R. § 103.3(a)(2)(v) states:

Improperly filed appeal -- (A) Appeal filed by person or entity not entitled to file it -- (1) Rejection without refund of filing fee. An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

The appeal was not filed by the petitioner, nor by any entity with legal standing in this proceeding, but by the beneficiary. The beneficiary of a visa petition is not a recognized party in a proceeding. 8 C.F.R. § 103.2(a)(3). Only the affected party is permitted to file an appeal. 8 C.F.R. § 103.3(a)(2)(i).

Therefore, the appeal has not been properly filed, and must be rejected.

Further, on appeal, the beneficiary stated,

Dear Sir or Madam,

I am hereby filing an appeal. My brief and/or additional evidence will be submitted to the AAO within 30 days.

I was unable to respond to your first letter, dated March 19, 2009 or submit additional evidence because the letter was mailed to my legal adviser's office (Lahore Foundation

Inc. – Attn. Mr. [REDACTED] and at that time Mr. [REDACTED] was in prison convicted for visa fraud.

Also, at this time I do not have a legal adviser or attorney to represent me nor do I have access to my documents in my file because federal authorities raided Mr. [REDACTED] office at [sic] took all the files.

The beneficiary also checked Box B in Part 2 of Form I-290B to indicate that a brief or additional evidence, or both, would be submitted within 30 days. No brief or evidence was submitted to the AAO, either with the form appeal or subsequently.

The beneficiary's statement on appeal contains no specific assignment of error. Alleging, directly or indirectly, that the director erred in some unspecified way is an insufficient basis for an appeal.

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 beneficiary failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal. If the appeal were not being rejected as improperly filed, it would have been summarily dismissed.

ORDER: The appeal is rejected.