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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W. MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

D2



Date: Office: VERMONT SERVICE CENTER

FILE: EAC 09 168 51818

APR 29 2011
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:



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 \$630. 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 Director, Vermont Service Center, revoked the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner is an importer and wholesaler that petitioned the United States Citizenship and Immigration Services (USCIS) to classify the beneficiary as a nonimmigrant 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 petitioner seeks to employ the beneficiary as an International Business Analyst. The director issued a Notice of Intent to Revoke (NOIR) the petition on May 20, 2010. The petitioner failed to respond to the NOIR, and the petition was subsequently revoked on July 14, 2010.

The beneficiary filed the only documents submitted on appeal, which are a Notice of Entry of Appearance as Attorney or Accredited Representative (Form G-28) signed by the beneficiary and a Notice of Appeal or Motion (Form I-290B) signed by the beneficiary's counsel. The record of proceeding does not contain a Form G-28 signed by the petitioner for the beneficiary's counsel.

USCIS regulations specifically prohibit a beneficiary of a visa petition, or a representative acting on a beneficiary's behalf, from filing a petition; the beneficiary of a visa petition is not a recognized party in a proceeding. 8 C.F.R. § 103.2(a)(3). Moreover, the regulations at 8 C.F.R. § 103.3(a)(1)(iii)(b) specifically state that a beneficiary of a visa petition is not an affected party and does not have any legal standing in a proceeding. As the beneficiary and her representative have no legal standing in this proceeding, counsel for the beneficiary is not authorized to file the appeal on behalf of the petitioner, and it must therefore be rejected as improperly filed. 8 C.F.R. § 103.3(a)(1)(iii)(B); 8 C.F.R. § 103.3(a)(2)(v)(A)(1); 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(i).

As the appeal was not properly filed, it must be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).¹

ORDER: The appeal is rejected.

¹ On February 3, 2011, the AAO received a letter from counsel for the beneficiary requesting that the appeal be withdrawn; the beneficiary's counsel is not entitled to withdraw the appeal, however, as it was not properly filed.