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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

[REDACTED]

DATE: OCT 05 2011 Office: VERMONT SERVICE CENTER FILE: [REDACTED]

IN RE: Applicant: [REDACTED]

APPLICATION: 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:

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.

Thank you,

A handwritten signature in black ink, appearing to read "Perry Rhew".

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the application to extend a period of stay in nonimmigrant status. The matter is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

The applicant seeks to extend her period of stay as a nonimmigrant dependent 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 applicant's spouse was denied.

The applicant's spouse is the beneficiary of a denied nonimmigrant petition filed by [REDACTED]. The Form I-290B filed in this matter was filed by counsel for [REDACTED] not by the applicant 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 applicant authorizing counsel to act on her behalf in this matter.

U.S. Citizenship and Immigration Services (USICS) 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)(1). As stated above, [REDACTED] 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 applicant authorizing counsel to act on her 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)(1); 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. See 8 C.F.R. §§ 214.1(c)(5) and 248.3(g). 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 applicant's appeal must be rejected.

ORDER: The appeal is rejected.