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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**



82

Date: **APR 05 2012**

Office: VERMONT SERVICE CENTER

FILE: 

IN RE:

Petitioner:

Beneficiary:



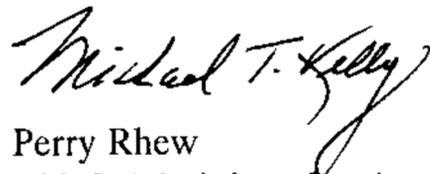
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

ON BEHALF OF PETITIONER: SELF-REPRESENTED

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,



*for* Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The service center director denied the nonimmigrant visa petition. The petitioner appealed. The AAO dismissed the appeal and denied the visa petition. The matter is again before the AAO on appeal. The appeal will be rejected.

On the Form I-129 visa petition the petitioner stated that it is a legal services firm. To employ the beneficiary in what it designates as a legal assistant position, the petitioner endeavors to classify him as a nonimmigrant worker in a specialty occupation 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 director denied the petition, finding that the petitioner failed to establish that it would employ the beneficiary in a specialty occupation position and failed to establish that the beneficiary is qualified to work in a specialty occupation position. On appeal, the petitioner asserted that the director's basis for denial was erroneous, and contended that the petitioner satisfied all evidentiary requirements.

The director issued his decision of denial on April 1, 2009. On May 4, 2009, the petitioner submitted an appeal on Form I-290B. The AAO dismissed that appeal and denied the visa petition on November 3, 2010. The petitioner submitted another Form I-290B on December 3, 2010. In Part 2 of that Form I-290B, the petitioner checked box B, indicating that it is submitted as an appeal, rather than as a motion.

The petitioner's appeal must be rejected. Again, the AAO does not exercise appellate jurisdiction over AAO decisions. 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, i.e., petitions for approval of schools to accept foreign students are now the responsibility of Immigration and Customs Enforcement (ICE). *See* DHS Delegation Number 0150.1(U) *supra*; 8 C.F.R. § 103.3(a)(iv); and 8 C.F.R. § 214.3. Accordingly, the appeal is not properly before the AAO.

Therefore, as the appeal was not properly filed, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

The appeal will be rejected as not under the appellate jurisdiction of the AAO.

**ORDER:** The appeal is rejected.