

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

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Date: **JUN 13 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

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,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The director of the Vermont Service Center denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected as improperly filed.

The petitioner claims to be a heating, ventilation and air condition (HVAC) manufacturing company with one employee. It seeks to employ the beneficiary as a Mechanical Engineer/HVAC Consultant 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 on March 22, 2010 concluding that the evidence of record does not establish that the job offered qualifies as a specialty occupation.

On March 15, 2010, a Form I-290B, Notice of Appeal or Motion, was filed by former counsel [REDACTED] without a new Form G-28, Notice of Entry of Appearance as Attorney or Representative signed by the petitioner.

Effective March 4, 2010, the regulation at 8 C.F.R. § 292.4(a) requires that a “new [Form G-28] must be filed with an appeal filed with the [AAO].” Title 8 C.F.R. § 292.4(a) further requires that the new Form G-28 “must be properly completed and signed by the petitioner, applicant, or respondent to authorize representation in order for the appearance to be recognized by DHS.”

On March 8, 2012 and March 26, 2012, respectively, this office sent former counsel a fax notice requesting a new, properly executed Form G-28 personally signed by both counsel and by an authorized official of the petitioning entity. As of this date, the AAO has not received any response to our fax requests.

Without a new, valid, and fully executed Form G-28, signed by an official of the petitioning entity, authorizing counsel to represent the petitioner in the proceeding of the instant appeal, the AAO cannot consider him to be the petitioner’s attorney of record with regard to the appeal currently before it.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(i) provides in pertinent part that: “If an appeal is filed by an attorney or representative without a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) entitling that person to file the appeal, the appeal is considered improperly filed.” In addition, the regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(1) provides that: “An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed.”

The instant appeal must be considered as filed by a person not entitled to file the appeal and, must be rejected as improperly filed.

ORDER: The appeal is rejected.