

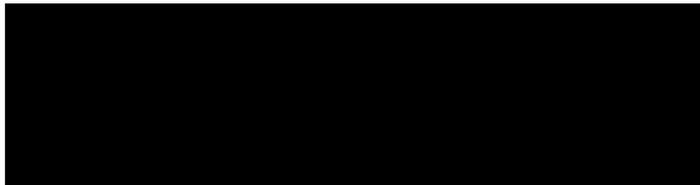
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

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Date: **MAY 04 2012** Office: CALIFORNIA SERVICE CENTER



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)

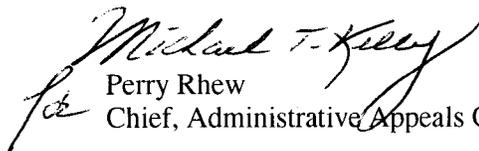
ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. Please note that all documents have been returned to the office that originally decided your case. Please also note that any further inquiry must be made to that office.

Thank you,


Perry Rhew
Chief, Administrative Appeals Office

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

In the Petition for a Nonimmigrant Worker (Form I-129), the petitioner described itself as an enterprise engaged in project consulting. To employ the beneficiary in what it designates as a project engineering manager 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, 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition on July 15, 2010, concluding that the petitioner failed to submit a labor condition application that included all of the beneficiary's place(s) of intended employment in accordance with the applicable statutory and regulatory provisions.

Alleged counsel for the petitioner subsequently filed a timely appeal on August 13, 2010.

The regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(2) states, in part, the following:

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.

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 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."

In the present matter, counsel claimed to file an appeal on behalf of the petitioner and submitted a Form G-28, with the Form I-290B, Notice of Appeal or Motion. However, the Form G-28 was improperly executed. Specifically, the Form G-28 was not properly executed in that an official of the petitioning entity has neither signed nor dated the Form G-28. Thus, the submitted G-28 did not meet the requirements of the regulations at 8 C.F.R. §§ 103.2(b)(4) and 292.4(a) and, as such, it failed to establish that the petitioner is represented by an attorney or accredited representative.

In accordance with 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(iii), the AAO sent counsel a facsimile on April 11, 2012, notifying him that a properly executed Form G-28, signed by counsel and the consenting affected party, must be submitted to the AAO by fax within five business days, and with the original to follow by mail and be received by the AAO within ten business days. However, counsel failed to respond to this request. Therefore, the AAO concludes that the appeal was improperly filed and must be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(1), which calls for rejection of an improperly filed appeal, where the person filing it is not entitled to do so.

ORDER: The appeal is rejected.