



U.S. Citizenship
and Immigration
Services



b2

Date: **OCT 03 2012** Office: CALIFORNIA 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 service center director denied the instant nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

In the Form I-129 visa petition, filed on February 22, 2011, the petitioner described itself as an IT (information technology) Development & Services firm. To employ the beneficiary in what it designates as a systems analyst 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 April 20, 2011 because she determined that the petitioner failed to demonstrate that it would employ the beneficiary in a specialty occupation position.

The record shows that [REDACTED] filed the instant appeal on behalf of the petitioner as a representative and that he signed the [REDACTED]. However, the record does not indicate that [REDACTED] or authorized representative. To the contrary, [REDACTED] signed the [REDACTED] and indicated in [REDACTED] the following: "Agent/Representative for Immigration Matters."

The regulation at 8 C.F.R. § 103.2(a)(3) specifies that a petitioner may be represented "by an attorney in the United States, as defined in § 1.1(f) of this chapter, by an attorney outside the United States as defined in § 292.1(a)(6) of this chapter, or by an accredited representative as defined in § 292.1(a)(4) of this chapter." Title 8 C.F.R. § 292.1(a)(3) also permits reputable individuals appearing without direct or indirect remuneration to represent a petitioner in certain circumstances. An accredited representative is defined in 8 C.F.R. § 292.1(a)(4) as a representative of an organization described in 8 C.F.R. § 292.2, which, in turn, states that only nonprofit religious, charitable, social service, or similar organizations recognized by the Board of Immigration Appeals may be so classified.

In this case, the record fails to establish that [REDACTED] falls within any of the categories of representatives authorized by the regulations to file an appeal on behalf of the petitioner and, therefore, the appeal must be rejected. "An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed." 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

Therefore, as [REDACTED] is not entitled and not authorized to represent the petitioner in this matter, the appeal must be rejected as improperly filed. *Id.*

Further, a review of U.S. Citizenship and Immigration Services (USCIS) records indicates that on April 25, 2011, a date subsequent to the denial of the instant petition, another employer filed a Form I-129 petition seeking nonimmigrant H-1B classification on behalf of the beneficiary. USCIS records further indicate that this other employer's petition was approved on June 3, 2011. Because the beneficiary in the instant petition has been approved for H-1B employment with another petitioner, even if the appeal in this matter were properly filed, further pursuit of the matter at hand would be moot.

Page 3

ORDER: The appeal is rejected.