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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**

[REDACTED]

12

DATE: **SEP 18 2012**

OFFICE: CALIFORNIA SERVICE CENTER

FILE: [REDACTED]

IN RE:

Petitioner:

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 IN THE FORM I-129 PROCEEDING:

[REDACTED]

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,

M Bailey
JR

Perry Rhew
Chief, Administrative Appeals Office

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

On the Form I-129 visa petition, the petitioner describes itself as a medical and orthopedic suppliers company established in 1993. In order to employ the beneficiary in what it designates as a quality assurance analyst position, the petitioner seeks 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 on the ground that the petitioner failed to establish that the proffered position qualifies for classification as a specialty occupation. On appeal, counsel asserts that the director's basis for denial of the petition was erroneous and contends that the petitioner satisfied all evidentiary requirements.

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." Although counsel in this matter previously entered his appearance prior to the instant Form I-129's adjudication on January 5, 2011, the record does not contain a new, properly executed Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative, personally signed by both counsel and by an authorized official of the petitioning entity for the Form I-290B filed with the AAO.

On August 22, 2012, the AAO sent a request for a new Form G-28 to counsel via facsimile transmission. Specifically, the AAO advised that without a new, valid, and fully executed Form G-28, signed by an official of the petitioning entity authorizing counsel to represent the petitioner, the AAO would not consider the appeal to have been properly filed. Pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A)(2) and its subclauses, counsel was instructed to submit a duly executed Form G-28 by mail or fax within fifteen calendar days. Counsel was further advised that failure to timely respond to the AAO's request would result in the rejection of the appeal. As of the date of this decision, no correspondence from counsel has been received.

Absent a new and properly executed Form G-28, counsel cannot be considered the petitioner's attorney of record with regard to the appeal currently before the AAO. U.S. Citizenship and Immigration Services regulations specifically prohibit the filing of an appeal by an attorney or representative without a properly executed Form G-28 entitling that person to file the appeal. 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(i).

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). As counsel is not a recognized party in the Form I-290B proceeding, counsel is not authorized to file an appeal. *Id.*; 8 C.F.R. § 103.3(a)(1)(iii)(B).

[REDACTED]

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

ORDER: The appeal is rejected.