



U.S. Citizenship
and Immigration
Services

(b)(6)

Date: **APR 01 2013**

Office: CALIFORNIA SERVICE CENTER

FILE: [REDACTED]

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 IN THE FORM I-129 PROCEEDING:

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,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The director of the California 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 Form I-129 visa petition states that the petitioner is a jewelry design, import, and wholesale firm. It seeks to employ the beneficiary in a position it designates as a part-time art director 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 February 15, 2012, concluding that the petitioner failed to establish that it would employ the beneficiary in a specialty occupation position.

On March 15, 2012, 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 January 28, 2013, this office sent former counsel a fax notice requesting that a new, properly executed Form G-28 personally signed both by counsel and by an authorized official of the petitioning entity be submitted to the AAO within fifteen (15) calendar days. The AAO further notified prior counsel that failure to submit the required Form G-28 would result in the rejection of the appeal as improperly filed. As of this date, the AAO has not received any response to this fax request.

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 to have been filed by a person not entitled to file the appeal and, therefore, it must be rejected as improperly filed.

ORDER: The appeal is rejected.