



U.S. Citizenship  
and Immigration  
Services

(b)(6)

DATE: **APR 01 2013**

OFFICE: CALIFORNIA SERVICE CENTER FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

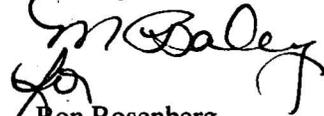
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(i)(b)

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 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.

The petitioner submitted a Petition for Nonimmigrant Worker (Form I-129) to the California Service Center on September 19, 2011. In the Form I-129 visa petition, the petitioner describes itself as a restaurant and food business established in 2009. In order to employ the beneficiary in what it designates as an accountant 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 November 19, 2011 finding that the petitioner failed to establish that the proffered position qualifies as a specialty occupation in accordance with the applicable statutory and regulatory provisions.

Alleged counsel for the petitioner subsequently filed an appeal on December 20, 2011.

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."

On December 21, 2012, the AAO issued a Request for Evidence (RFE) for a new Form G-28. The AAO noted that the Form G-28 submitted with the Form I-290B listed the petitioner as [REDACTED] instead of [REDACTED]

Counsel for the petitioner responded to the RFE on January 3, 2013, by submitting the new Form G-28. The AAO reviewed the submission and observed that the signature on the new Form G-28 for the petitioner's authorized official was visibly different from signatures on other forms in the record of proceeding. Further, the name and job title of the petitioner's authorized representative were not on the Form G-28. Without evidence that the petitioner's authorized official had signed the Form G-28 in his/her authorized capacity on behalf of the petitioner, the AAO was unable to determine that the Form I-290B was properly filed by the affected party (the petitioner).

Consequently, the AAO issued another RFE on February 4, 2013, requesting a new Form G-28 to include the name of the petitioner and the name and the job title of the petitioner's authorized official. In addition, the AAO noted that the Form G-28 must be personally signed by the petitioner and counsel.

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However, the petitioner and counsel failed to respond to this request within the allotted time period. 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)(I), 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.