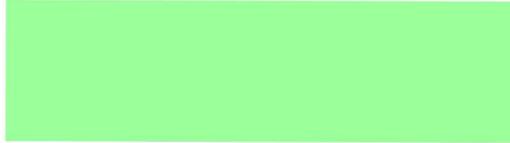


(b)(6)

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



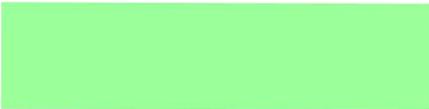
U.S. Citizenship  
and Immigration  
Services



DATE: **AUG 27 2013** OFFICE: VERMONT 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 (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg", with a small "for" written below it.

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The service center director 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 petitioner filed a Petition for Nonimmigrant Worker (Form I-129) with the Vermont Service Center on August 5, 2011. In the Form I-129 visa petition, the petitioner described itself as a shipping/courier services company established in 2005. In order to employ the beneficiary in what it designates as an assistant financial manager position, the petitioner seeks to classify her 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 August 8, 2012, concluding that the petitioner failed to establish that the proffered position is a specialty occupation in accordance with the applicable statutory and regulatory provisions. Counsel for the petitioner in the Form I-129 proceeding subsequently filed an appeal on September 10, 2012.

In accordance with the U.S. Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 292.4(a) as well as the instructions to the Form I-290B, a "new [Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative] must be filed with an appeal filed with the Administrative Appeals Office." 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." This regulation applies to all appeals filed on or after March 4, 2010. *See* 75 Fed. Reg. 5225 (Feb. 2, 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.

The record, however, does not contain a **new, properly** executed Form G-28 personally signed by both prior counsel and by an authorized official of the petitioning entity. The Form G-28 submitted with the Form I-290B failed to establish that the petitioner is represented by an attorney or accredited representative with respect to the Form I-290B filed with the AAO. Specifically, comparing the signatures in the record of proceeding, the AAO noted that the signature on the new Form G-28 is visibly different from signatures on other forms in the record. Thus, it has not been established that the signature on the new Form G-28 is from the petitioner's authorized official. Without sufficient evidence that the petitioner's authorized official has signed the Form G-28 in his/her authorized capacity on behalf of the petitioner, the AAO cannot find that the Form I-290B was properly filed by the affected party or its representative.

In accordance with 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(iii), the AAO sent prior counsel a facsimile on August 2, 2013, notifying him that a properly executed Form G-28, signed by him and the consenting affected party, must be submitted to the AAO within fifteen (15) calendar days.

However, prior counsel failed to respond to this request within the allotted time period (or thereafter). 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.