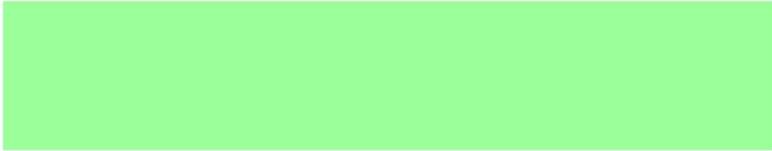


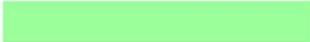


U.S. Citizenship
and Immigration
Services

(b)(6)



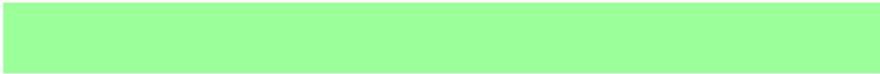
DATE: JUN 18 2013

Office: CALIFORNIA SERVICE CENTER File: 

IN RE:

Petitioner:

Beneficiary:



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

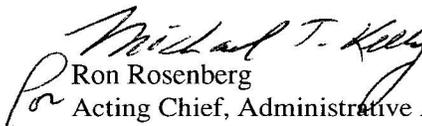
ON BEHALF OF PETITIONER:

NOT REPRESENTED ON APPEAL

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. Please note that all documents have been returned to the office that originally decided your case. Please also note that any further inquiry must be made to that office.

Thank you,


Ron Rosenberg
Acting Chief, Administrative Appeals Office

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

The petitioner submitted a Petition for a Nonimmigrant Worker (Form I-129) to the California Service Center. On the Form I-129 visa petition, the petitioner describes itself as an information technology and software development firm established in 2010. In order to employ the beneficiary in what it designates as a programmer 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, 8 U.S.C. § 1101(a)(15)(H)(i)(b).

The director denied the petition on September 11, 2012, finding that the beneficiary is not eligible for an extension of H-1B nonimmigrant status under section 106(a) of the American Competitiveness in the Twenty-First Century Act, as amended, because a final decision to deny has been made on the beneficiary's immigrant petition.

Counsel for the beneficiary filed the documents submitted on appeal, i.e., a new Notice of Entry of Appearance as Attorney or Accredited Representative (Form G-28) and a Notice of Appeal or Motion (Form I-290B). Both documents are signed by the beneficiary and his counsel. The record of proceeding does not contain a new Form G-28 signed by the petitioner to authorize counsel's representation before the AAO as required by 8 C.F.R. § 292.4(a).

USCIS regulations specifically prohibit a beneficiary of a visa petition, or a representative acting on a beneficiary's behalf, from filing a petition; the beneficiary of a visa petition is not a recognized party in a proceeding. 8 C.F.R. § 103.2(a)(3). Moreover, the regulations at 8 C.F.R. § 103.3(a)(1)(iii)(B) specifically state that a beneficiary of a visa petition is not an affected party and does not have any legal standing in a proceeding. As the beneficiary and his representative have no legal standing in this proceeding, counsel for the beneficiary is not authorized to file the appeal on behalf of the petitioner, and it must therefore be rejected as improperly filed. 8 C.F.R. § 103.3(a)(1)(iii)(B); 8 C.F.R. § 103.3(a)(2)(v)(A)(1); 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(i).

As the appeal was not properly filed, it must be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(1).

ORDER: The appeal is rejected.