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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

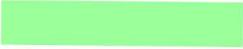


U.S. Citizenship
and Immigration
Services

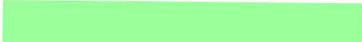


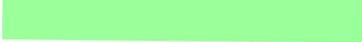
Date: JUN 21 2013

Office: CALIFORNIA SERVICE CENTER

FILE: 

IN RE:

Petitioner: 

Beneficiary: 

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,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Acting Chief, Administrative Appeals Office

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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.

On the Form I-129 visa petition, the petitioner stated that it is an "IT Services" firm. To employ the beneficiary in what it designates as a business analyst position, the petitioner endeavors 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 October 18, 2012 concluding that the petitioner failed (1) to establish that it has standing to file the visa petition as the petitioner's prospective employer and (2) to establish that the proffered position qualifies as a specialty occupation.

On November 16, 2012, a Form I-290B, Notice of Appeal or Motion, was filed by former counsel Bharati Shah 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 April 24, 2013, this office sent former counsel a fax notice requesting a new, properly executed Form G-28 personally signed by both counsel and by an authorized official of the petitioning entity.

In response, counsel submitted a Form G-28 signed by counsel and by a representative of the petitioner. The signature of the representative of the petitioner, however, was dated May 10, 2012, prior to the denial of the visa petition.

On May 15, 2013, this office sent former counsel a second fax notice requesting a new, properly executed Form G-28 personally signed by both counsel and by an authorized official of the petitioning entity. The AAO explained in the fax that, "A new Form G-28, evincing that the petitioner agrees to [counsel's] representation on appeal, must necessarily be dated after October 18, 2012, the date of the decision of denial." 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)(I) 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 as filed by a person not entitled to file the appeal and, therefore, must be rejected as improperly filed.

ORDER: The appeal is rejected.