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U.S. Citizenship  
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FILE: EAC 08 148 53954 Office: VERMONT SERVICE CENTER Date: JAN 08 2009

IN RE: Petitioner:  
Beneficiaries:



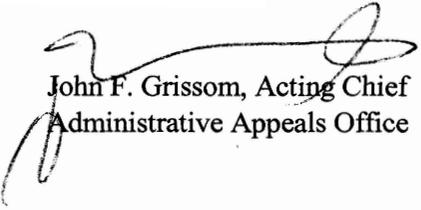
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(ii)(b)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

  
John F. Grissom, Acting Chief  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected although the matter is moot due to the passage of time.

The petitioner is engaged in reforestation and herbicide services. It desires to employ the beneficiaries as forestry herbicide laborers pursuant to section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(H)(ii)(b) for the period from April 1, 2008 to December 31, 2008. The Department of Labor (DOL) determined that the petitioner had submitted sufficient evidence for the issuance of a temporary labor certification by the Secretary of Labor. The acting director denied the petitioner concluding that the authorized stay for all 59 beneficiaries expired prior to the filing of the instant petition, and the petitioner did not provide a justifiable reason for the delay in filing the instant petition.

The AAO will reject the appeal because it was filed by a person not authorized to appear before Citizenship and Immigration Services (CIS) on behalf of any person or entity. The CIS regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(1) provides that an appeal filed with CIS by a person not entitled to file it "must be rejected as improperly filed."

The regulation at 8 C.F.R. § 103.2(a)(3) allows three categories of persons to file appeals with CIS as representatives of applicants or petitioners: (1) attorneys in the United States, as defined at 8 C.F.R. § 1.1(f); (2) attorneys outside the United States, as defined at 8 C.F.R. § 292.1(a)(6); and (3) accredited representatives, as defined at 8 C.F.R. § 292.1(a)(4) of this chapter. A person appearing before CIS in a representative capacity must file a Form G-28 (Notice of Entry of Appearance as Attorney or Representative), signed by the petitioner, that identifies the provisions of 8 C.F.R. § 292.1 under which he or she is entitled to represent the petitioner before CIS. See 8 C.F.R. § 292.4(a).

The record of proceeding contains a Form G-28 signed by the petitioner. This form identifies the petitioner's representative as [REDACTED] who signed the Form I-129, the Form I-290B, and filed the appeal. By letter dated October 1, 2008, the AAO provided Ms. [REDACTED] 15 days in which to: (1) identify the provision(s) of 8 C.F.R. § 103.2(a)(3) under which she is qualified to represent the petitioner, and (2) documentary proof of her qualification under whatever provision(s) of 8 C.F.R. § 103.2(a)(3) she cites as authorizing her to appear in a representative capacity on this appeal. The letter notified [REDACTED] that the AAO would reject the appeal as improperly filed if, within fifteen 15 days, she failed to submit evidence of her authorization to represent the petitioner. [REDACTED] did not respond to the AAO.

It is also noted that the petitioner requested the beneficiary's services from April 1, 2005 until December 31, 2008. Therefore, the period of requested employment has passed.

The record fails to establish that the person who filed the appeal was authorized to appear as a representative. Accordingly, the AAO will reject the appeal

**ORDER:** The appeal is rejected.