

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy
PUBLIC COPY

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

DT

[Redacted]

DATE: **SEP 11 2012**

Office: VERMONT SERVICE CENTER

FILE: [Redacted]

IN RE:

Petitioner:

Beneficiary:

[Redacted]

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

ON BEHALF OF BENEFICIARY:

[Redacted]

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.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will reject the appeal as improperly filed.

The petitioner filed this nonimmigrant petition seeking to extend the beneficiary's employment as a nonimmigrant intracompany transferee pursuant to section 101(a)(15)(L) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(L). The petitioner, a Florida corporation, states that it operates a fast food restaurant and an import/export business. It claims to be a subsidiary of [REDACTED] located in Venezuela. The beneficiary was previously granted L-1A status for a period of one year in order to open a new office in the United States and the petitioner now seeks to extend her status so that she may continue to serve in the position of general manager.

The director denied the petition, concluding that the petitioner failed to establish that it will employ the beneficiary in a primarily managerial or executive capacity.

A timely appeal was filed in response to the director's decision. The appeal must be rejected because it was improperly filed. In order to properly file an appeal, the regulation at 8 C.F.R. § 103.3(a)(2)(i) provides that the affected party must file the complete appeal within 30 days of service of the unfavorable decision.

The regulation at 8 C.F.R. § 103.3(a)(1)(iii) states, in pertinent part:

- (B) *Meaning of affected party.* For purposes of this section and sections 103.4 and 103.5 of this part, *affected party* (in addition to the Service) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition. An affected party may be represented by an attorney or representative in accordance with part 292 of this chapter.

The regulation at 8 C.F.R. § 103.3(a)(2)(v) states:

- (A) *Appeal filed by person or entity not entitled to file it -- (1) Rejection without refund of filing fee.* An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

Therefore, U.S. Citizenship and Immigration Services (USCIS) regulations specifically limit the filing of an appeal to an affected party (the person or entity with legal standing) and/or to the party's attorney or representative authorized pursuant to 8 C.F.R. § 292. The meaning of affected party does not include the beneficiary of a visa petition.

Here, the Form I-290B, Notice of Appeal or Motion was signed by an attorney who is not authorized to file the appeal. Counsel indicates on the accompanying Form G-28, Notice of Entry of Appearance as Attorney or Representative, that he represents the beneficiary. The petitioning employer is not named as a represented

party on the Form G-28. Rather, the beneficiary's name and residential address have been completed at Part 1.B. of the Form G-28 as the represented party.

U.S. Citizenship and Immigration Services (USCIS) regulations specifically limit the filing of an appeal to an affected party (the person or entity with legal standing) and/or to the party's attorney or representative authorized pursuant to 8 C.F.R. § 292. The meaning of affected party does not include the beneficiary of a visa petition or his or her representative. *See* 8 C.F.R. § 103.3(a)(1)(iii)(B).

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 is improperly filed and must be rejected. Accordingly, the appeal will be rejected.

ORDER: The appeal is rejected.