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U.S. Department of Homeland Security
20 Massachusetts Ave., N.W., Rm. 3000
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

Dg



File: [Redacted]
WAC 06 800 09287

Office: CALIFORNIA SERVICE CENTER Date: **FEB 02 2009**

IN RE: Petitioner: [Redacted]
Beneficiary [Redacted]

Petition: Petition for a Nonimmigrant Worker under Section 101(a)(15)(O)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(O)(i)

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom, Acting Chief
Administrative Appeals Office

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

The petitioner filed the instant petition seeking to classify the beneficiary as an O-1 nonimmigrant pursuant to section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the Act), as an alien of extraordinary achievement in motion picture and television production. The petitioner operates a film and video production company and seeks to employ the beneficiary as a cinematographer, camera operator and lighting technician for a period of one year.

The director denied the petition on September 28, 2006, on two independent and alternative grounds. First, the director determined that the petitioner failed to submit the two written consultations required by 8 C.F.R. § 214.2(o)(5)(iii). Second, the director concluded that the evidence submitted fails to establish that the beneficiary is an alien of extraordinary achievement who has earned sustained national or international claim in motion picture or television production.

The beneficiary subsequently filed the instant appeal. He states in his letter dated November 26, 2006 that he agrees with the denial decision, and inquires as to whether there are any other immigration benefits may be available to him.

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 appeal within 30 days after service of the unfavorable decision. The regulation at 8 C.F.R. § 103.3(a)(1)(iii)(B) states:

Meaning of affected party. For purposes of this section and sections 103.4 and 103.5 of this part, *affected party* means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

U.S. Citizenship and Immigration Services (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).

Similarly, only an authorized party may maintain an appeal. 8 C.F.R. § 103.3(a)(2)(v) states:

Improperly filed appeal—(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.

As the instant appeal was filed by a person not entitled to file it, the appeal will be rejected pursuant to 8 C.F.R. § 103.3(a)(2)(v)(A).

ORDER: The appeal is rejected.