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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass., 3/F
Washington, D.C. 20536

[redacted]

File: WAC 01 295 52655 Office: California Service Center Date: JUL 21 2003

IN RE: Petitioner:
Beneficiary: [redacted]

Petition: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

IN BEHALF OF PETITIONER:

[redacted]

IN BEHALF OF BENEFICIARY:

[redacted]

INSTRUCTIONS:

This is the decision 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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment based immigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be rejected.

It is noted that the petitioner and the beneficiary were initially represented by attorney [redacted] On May 23, 2002, attorney [redacted] submitted a Form G-28, Notice of Entry of Appearance as Attorney or Representative, reflecting that he represented the beneficiary, but not the petitioner. On March 5, 2003, the beneficiary filed the appeal in his own behalf.

The petitioner seeks to classify the beneficiary pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability in the sciences. The petitioner seeks to employ the beneficiary as an Engineering Researcher/Physicist. The director determined the petitioner had not established that the beneficiary has earned the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

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.

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.

The appeal has not been filed by the petitioner, nor by any entity with legal standing in the proceeding, but rather by the beneficiary. Therefore, the appeal has not been properly filed, and must be rejected.

ORDER: The appeal is rejected.