



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 19335708

Date: DEC. 3, 2021

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner, a sound editor and designer, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding that the record did not establish, as required, that the Petitioner has a qualifying one-time achievement (a major, internationally recognized award), or that he meets at least three of the ten alternate evidentiary criteria for this classification. The matter is now before us on appeal.

The Petitioner bears the burden of establishing eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. As set forth below, we will reject the appeal.

The record reflects that the Form I-290B, Notice of Appeal or Motion, and the Form G-28, Notice of Entry of Appearance of Attorney or Accredited Representative accompanying the appeal were signed by attorney and not the Petitioner, in the spaces designated for such signatures.

Other than the exceptions specifically provided therein, the regulations do not permit any individual who is not the petitioner to sign a benefit request. Specifically, the regulation at 8 C.F.R. § 103.2(a)(2) provides:

Signature. An applicant or petitioner must sign his or her benefit request. However, a parent or legal guardian may sign for a person who is less than 14 years old. A legal guardian may sign for a mentally incompetent person. By signing the benefit request, the applicant or petitioner, or parent or guardian certifies under penalty of perjury that the benefit request, and all evidence submitted with it, either at the time of filing or thereafter, is true and correct. Unless otherwise specified in this chapter, an acceptable signature on [a] benefit request that is being filed with the USCIS is one that is either

handwritten or, for benefit requests filed electronically as permitted by the instructions to the form, in electronic format.

Part 4 of the Form I-290B (Applicant's or Petitioner's Statement, Contact Information, Certification, and Signature) instructs the filer of an appeal based on a petition filed by an individual to "complete this section." This section, however, includes the attorney's telephone number and email address, and bears the attorney's signature in subsection 6.a which is designated for the Petitioner's signature. Thus, Part 4 of the Form I-290B was not completed correctly and lacks the requisite signature of the Petitioner. The lack of a proper signature at subsection 6.a invalidates the contents of the "Petitioner's Certification" that appears above the signature, in particular the closing sentence which reads, in pertinent part: "I certify, under penalty of perjury, that all of the information in my form and any document submitted with it were provided or authorized by me, that I reviewed all of the information in, and submitted with, my form, and that all of this information is complete, true and correct." In fact, there is no evidence that the Petitioner reviewed the Form I-290B, and he did not certify that the information therein is complete, true and correct. Therefore, the Petitioner did not complete Part 4 in accordance with the instructions on the Form I-290B.¹

We observe that the record contains a statement submitted with the Form I-140 entitled "To Whom it May Concern," signed by both the Petitioner and [REDACTED] which states as follows:

I, [Petitioner], resident of [REDACTED] Nepal, in my full and conscious capacity, hereby authorize [REDACTED] A resident of California, USA to sign on my behalf, in all the forms and applications, which are necessary to complete my petition for employment related Immigrant Visa to the USCIS.

I declare that her signing of the necessary documents is fully consented and I will not deny or claim against any of her discretionary signature, throughout the process of my application.

I have voluntarily signed and sent this letter to [REDACTED] via email. Her signature is included below in this letter and the letter will be in full force once she signs below.

While we acknowledge that the Petitioner purportedly delegated his attorney to act on his behalf, this document does not satisfy USCIS signature requirements. Except as otherwise specifically authorized, a benefit requestor must personally sign his or her own request before filing it with USCIS.²

¹ The Form G-28 accompanying the appeal was also not properly executed as it does not bear the Petitioner's signature. According the 8 C.F.R. § 292.4(a), an appearance must be filed on the appropriate form as prescribed by DHS by the attorney or accredited representative appearing in each case. *The form 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.* (Emphasis added).

² See 1 USCIS Policy Manual B.2, <https://www.uscis.gov/policy-manual/volume-1-part-b-chapter-2>; see also 8 C.F.R. § 103.2(a)(2).

Finally, we note that the underlying Form I-140 petition was also executed by [redacted] [redacted] and not the Petitioner.³ Although the Director reviewed the petition based on its merits, the petition was improperly filed as it was not properly signed, and thus should have been rejected by the Director at the time of filing.⁴

Under 8 C.F.R. § 103.3(a)(1)(iii)(B) and (a)(2)(i), only an affected party may appeal an unfavorable decision. Here, the appeal was filed by [redacted] who is not the “affected party” in this proceeding. We will therefore reject the appeal as improperly filed.

ORDER: The appeal is rejected.

³ Box 8.a of the Form I-140 petition, designated for the Petitioner’s certification under penalty of perjury, is signed by [redacted] not the Petitioner.

⁴ Pursuant to 8 C.F.R. § 103.2(a)(7)(ii)(A), a petition which is not properly signed shall be rejected as improperly filed, and no receipt date assigned to the petition.