



U.S. Citizenship
and Immigration
Services

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 20577737

Date: MAR. 10, 2022

Appeal of Texas Service Center Decision

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

The Petitioner 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 Texas Service Center denied the petition, concluding that the Petitioner had satisfied only two of the ten initial evidentiary criteria, of which he must meet at least three. *See* 8 C.F.R. § 204.5(h)(3)(i)-(x).

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. *See* Section 291 of the Act, 8 U.S.C. § 1361. As set forth below, we will reject the appeal.

The record reflects that attorney [redacted] who represented the Petitioner in the prior filing of Form I-140, filed Form I-290B (Notice of Appeal or Motion). However, her Form I-290B was not accompanied by the required Form G-28 (Notice of Entry of Appearance as Attorney or Accredited Representative).¹ Although we sent a notice to [redacted] informing her that we considered the Petitioner to be self-represented in the appeal proceeding because she did not submit a properly executed Form G-28 [redacted] did not respond to our notice.²

Accordingly, the appeal itself must be rejected as improperly filed. Part 4, Section A of Form I-290B (Applicant's or Petitioner's Statement, Contact Information, Certification, and Signature) instructs the filer of an appeal based on an application or petition filed by an individual to complete this section. [redacted] provided her information and signed her name in the Petitioner's signature box (subsection A.8.a). However, without a properly executed Form G-28, Form I-290B lacks the requisite signature from an

¹ Although [redacted] indicated on Form I-290B that Form G-28 was attached, the record does not reflect that Form G-28 was submitted with the appeal.

² In contrast to the appeal now before us, the Petitioner's initial filing of Form I-140 was accompanied by Form G-28 that was properly signed by both [redacted] and the Petitioner. That Form G-28, however, is not valid for the subsequent appeal of the Director's denial decision, which requires the filing of a new Form G-28. *See* 8 C.F.R. §§ 103.3(a)(2)(v)(A)(2)(i) and 292.4(a).

authorized signatory.³ Moreover, the absence of a proper signature invalidates the contents of the “Petitioner’s Certification” that appears above the signature, in particular the closing sentence which reads, in pertinent part, as follows: “I certify, under penalty of perjury, that I have reviewed this form . . . and all of this information is complete, true, and correct.” In the alternative, we cannot consider the appeal filed by the Petitioner because the form does not contain his information and his signature, certifying that the information therein is complete, true, and correct. In fact, there is no evidence that the Petitioner reviewed Form I-290B.

Here, the only signature on Form I-290B is that of [redacted] who is not the “affected party” in this proceeding, notwithstanding her initial representation of the Petitioner, and therefore does not have legal standing to file the appeal. *See* 8 C.F.R. § 103.3(a)(1)(iii)(B). Further, the regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(1) states that “[a]n 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 returned.”⁴ Since [redacted] did not submit a properly executed Form G-28 with the appeal and the Petitioner did not file the appeal as the “affected party” in this proceeding, we will reject the appeal.

ORDER: The appeal is rejected.

³ The instructions for Form I-290B state that “[e]very form MUST contain the signature of the applicant or petitioner (or parent, legal guardian, or authorized signatory, if applicable). *See* <https://www.uscis.gov/i290b> (last visited March 10, 2022).

⁴ The regulation at 8 C.F.R. § 103.3(a)(2)(v)(A)(2)(i) further provides that “[i]f an appeal is filed by an attorney or representative without a properly executed Notice of Entry of Appearance as Attorney or Representative (Form G-28) entitling that person to file the appeal, the appeal is considered improperly filed. In such case any filing fee the Service has accepted will not be refunded regardless of the action taken.”