U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 8846243

Date: SEPT. 3, 2020

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Skilled Worker

The Petitioner sought to employ the Beneficiary as a facility manager under the third-preference, immigrant classification for skilled workers. See Immigration and Nationality Act (the Act) section 203(b)(3)(A)(i), 8 U.S.C. § 1153(b)(3)(A)(i).

The Director of the Texas Service Center denied the petition. The Director concluded that the Petitioner did not demonstrate the Beneficiary's possession of the minimum experience required for the offered position.[1]

The Beneficiary seeks to appeal the decision. The Beneficiary signed the Form I-290B, Notice of Appeal, and Form G-28, Notice of Appearance, authorizing counsel to represent him. The record does not indicate the Petitioner's authorization of the filing.

Only affected parties, however, may file appeals. 8 C.F.R. § 103.3(a)(2)(i) (stating that "[t]he affected party must submit an appeal"). The term "affected party" 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)(1)(iii)(B).[2]

"An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed." 8 C.F.R. § 103.3(a)(2)(v)(A)(1). We will therefore reject the appeal as improperly filed.

ORDER: The appeal is rejected.

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[1] The Director also found that the Beneficiary willfully misrepresented his claimed, qualifying experience on the accompanying certification from the U.S. Department of Labor. The director stated in his decision, "[T]his finding of willful misrepresentation of a material fact shall be considered in any future proceeding where admissibility is an issue." Visa petition proceedings, however, are not the proper fora for deciding substantive issues of inadmissibility. Matter of O-, 8 I&N Dec. 295, 297 (BIA 1959).

[2] U.S. Citizenship and Immigration Services treats beneficiaries in petition revocation proceedings as affected parties if they qualify to "port" under section 204(j) of the Act, 8 U.S.C. 1154(j), and have properly requested to do so. Matter of V-S-G- Inc., Adopted Decision 2017-06 (AAO Nov. 11, 2017). These are not petition revocation proceedings, however, nor does the record indicate the Beneficiary's qualifications to port or his request to do so.