U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

Public Copy

[redacted]

File: SRC-01-074-50647 Office: Texas Service Center Date: AUG 3 2001

IN RE: Petitioner: [redacted]
Beneficiary:

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

IN BEHALF OF PETITIONER: Self-represented

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:
This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of $110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Myra L. Rosenberg

for Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Texas Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is described as an entertainment booking agency. The beneficiary is described as a booking agent and stage manager. The petitioner filed a Form I-129 (Petition for a Nonimmigrant Worker) seeking classification of the beneficiary under section 101(a)(15)(P)(i) of the Immigration and Nationality Act (the "Act"), as an essential support worker. The petitioner seeks to employ the beneficiary temporarily in the United States as a member of the technical support crew for a musical group on a one-year tour of the United States.

The director denied the petition explaining that P-1 classification may be granted to an essential support alien only when the entertainment group he or she is supporting is also in P-1 classification. The director found that the members of the entertainment group in this matter are not in P-1 classification, and are, in fact, United States citizens.

On appeal, the petitioner explained that the services of the beneficiary are considered essential to the entertainment group.

Section 214(c)(4)(B)(i) of the Act, 8 U.S.C. 1184(c)(4)(A), provides, in pertinent part, that section 101(a)(15)(P)(i) of the Act applies to an alien who:

> (I) performs with or is an integral and essential part of the performance of an entertainment group that has (except as provided in clause (ii)) been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time...

8 C.F.R. 214.2(p)(4)(iv) provides for P-1 classification of an alien as an essential support alien who:

> (A) *General*. An essential support alien as defined in paragraph (p)(3) of this section may be granted P-1 classification based on a support relationship with an individual P-1 athlete, P-1 athletic team, or a P-1 entertainment group.

8 C.F.R. 214.2(p)(3) states in pertinent part:

> *Essential support alien* means a highly skilled, essential person determined by the Director to be an integral part of the performance of a P-1, P-2, or P-3 alien because he or she performs support services which cannot be readily performed by a United States worker and which are essential to the

successful performance of services by the P-1, P-2, or P-3 alien.

On review, the petitioner's statement on appeal does not address the basis for denial of the petition. Clearly, P-1 classification is not available to an essential support alien employed by an entertainment group that is made up of United States citizens. Therefore, the appeal will be dismissed.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. Here, the petitioner has not met that burden.

ORDER: The appeal is dismissed.