



U.S. Department of Justice

Immigration and Naturalization Service

MA

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



PUBLIC COPY

File: EAC-01-065-51361 Office: Vermont Service Center Date: AUG 23 2001

IN RE: Petitioner: [Redacted]  
Beneficiary: [Redacted]

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

IN BEHALF OF PETITIONER: Self-represented

Identifying information  
prevented to protect  
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. Rosenz*  
for Robert P. Wiemann, Acting Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, Vermont 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 production agency. The beneficiary is a six-member Paraguayan musical group. The petitioner filed a Form I-129 (Petition for a Nonimmigrant Worker) seeking classification of the beneficiary under section 101(a)(15)(P)(ii) of the Immigration and Nationality Act (the "Act"), as an entertainment group performing under an international reciprocal exchange program, for a five-year tour of the United States.

The director denied the petition finding that the petitioner failed to establish that the group's tour was related to a qualifying international reciprocal exchange agreement between organizations in Paraguay and the United States and because the petitioner failed to submit the required labor consultation.

On appeal, the petitioner submitted a Spanish-language letter from a Paraguayan musician's association. The petitioner failed to address the issue of the reciprocal exchange agreement.

Section 101(a)(15)(P) of the Act provides nonimmigrant classification to artists, athletes and entertainers under three primary classifications. In brief, P-1 classification applies to internationally recognized athletes or athletic teams seeking to perform at specific events. P-2 classification applies to artists or entertainers seeking to perform under a reciprocal exchange agreement between a U.S. organization and a foreign organization. P-3 classification applies to artists or entertainers seeking to perform, teach or coach in a culturally unique program.

The instant petition was filed seeking P-2 classification. Section 101(a)(15)(P)(ii) of the Act, provides for P-2 classification of an alien who:

(I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and

(II) seeks to enter the United States temporarily and solely for the purpose of performing as such an artist or entertainer or with such a group under a reciprocal exchange program between an organization or organizations in the United States and an organization or organizations in one or more foreign states and which provides for the temporary exchange of artists and entertainers;....

8 C.F.R. 214.2(p)(2) states, in pertinent part, that:

(i) ...A P-2 petition for an artist or entertainer in a reciprocal exchange program shall be filed by the United States labor organization which negotiated the reciprocal exchange agreement, the sponsoring organization, or a United States employer...

8 C.F.R. 214.2(p)(2)(ii) requires all petitions for P classification to be accompanied, in pertinent part, by:

(D) A written consultation from a labor organization.

As stated in the center director's decision, there is no evidence that the beneficiary's proposed tour is part of a qualifying international exchange agreement. Nor did the petitioner furnish the required consultation from a United States labor organization. Therefore, the petition for P-2 classification may not be approved.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. Here, the petitioner has met that burden.

**ORDER:** The appeal is dismissed.