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U.S. Department of Justice  
Immigration and Naturalization Service

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



File: EAC-01-215-54693 Office: Vermont Service Center Date: **AUG 11 2002**

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

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

IN BEHALF OF PETITIONER: [Redacted]

**Public Copy**

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that 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 that 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 that originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, Vermont Service Center. The matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be rejected.

The petitioner appears to be a theatrical representation firm. The beneficiary is an individual affiliated with a motion picture production. The petitioner seeks O-1 classification of the beneficiary, under section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the "Act"), as an alien with extraordinary achievement in the motion picture industry.

The Form I-129 petition was filed on June 29, 2001, without the required initial evidence to support the petition. On September 8, 2001, the center director issued a written notice requesting evidence to support the petition. On October 23, 2001, the center director denied the petition finding that the petitioner failed to submit the required evidence specified in the notice. In his decision, the director granted the petitioner the right to appeal the decision.

Counsel for the petitioner filed a Form I-290B Notice of Appeal.

Pursuant to 8 C.F.R. 103.2(b)(13), if all requested initial evidence and requested additional evidence are not submitted by the required date, the petition shall be considered abandoned and, accordingly, shall be denied. Pursuant to 8 C.F.R. 103.2(b)(15), a denial due to abandonment may not be appealed, but the petitioner may file a motion to reopen under 8 C.F.R. 103.5.

Although the center director advised the petitioner of appeal rights from the initial decision, the petition was abandoned and there is no right to appeal. Therefore, the record will be remanded for consideration by the director as a motion to reopen.

**ORDER:** The appeal is rejected; the record is remanded for further consideration.