



DOJ

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: WAC-01-229-50311 Office: California Service Center Date: JUL 18 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: Self-represented

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

Myra L. Rose
for Robert P. Wiemann, Director
Administrative Appeals Office

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

The petitioner is a corporation operating a music event, a jazz festival. The beneficiary is a seven-member jazz band. The petitioner filed a Form I-129, Petition for a Nonimmigrant Worker, seeking O-1 classification of the beneficiary, as an alien with extraordinary ability in the arts, under section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the "Act").

The director denied the petition advising the petitioner that O-1 classification is only available for individual performers recognized as having extraordinary ability in the arts.

The petitioner filed an appeal expressing confusion on the procedures to bring the band to the United States for a single performance.

8 C.F.R. 214.2(o)(1)(i) provides for O-1 nonimmigrant visa classification to an individual qualified alien to come to the United States to perform services relating to an artistic event or events. This classification is not available to entertainment groups. There are other visa classifications that allow the petitioner to employ the foreign entertainment group.

The adjudications authorities of this Service cannot preadjudicate a visa petition and therefore cannot advise the petitioner which petition to file during the course of a visa proceeding. The petitioner should seek advice on the proper procedure from private legal counsel, from the Service's internet website, or from the local INS office.

ORDER: The appeal is dismissed.