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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

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clearly unwarranted  
agency

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

FILE: LIN 02 093 53199

Office: NEBRASKA SERVICE CENTER

Date:

AUG 18 2003

IN RE: Petitioner:  
Beneficiary:

PETITION: Petition for a Nonimmigrant Worker under Section 101(a)(15)(O)(ii) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(O)(ii)

ON BEHALF OF PETITIONER:

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 Bureau of Citizenship and Immigration Services (Bureau) 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.

  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, Nebraska Service Center. The Administrative Appeals Office (AAO) denied a subsequent appeal. The matter is again before the AAO on motion to reopen and reconsider. The motion will be granted. The prior decision of the AAO dated March 12, 2003 is affirmed.

The petitioner is a horse stable. The beneficiary is a horse trainer and rider. The petitioner seeks O-2 classification of the beneficiary, under section 101(a)(15)(O)(ii) of the Immigration and Nationality Act (the Act), as an essential support alien to her spouse [REDACTED] who is seeking O-1 classification.

The director denied the petition, finding that the status of an O-2 alien is contingent upon the status of the O-1 alien to whom she will provide essential support. In this case, the petition for the alien whom the beneficiary would have accompanied [REDACTED] has been denied, so the director denied the instant O-2 petition.

On motion, counsel for the petitioner asserts that the beneficiary's spouse, [REDACTED] is an alien of extraordinary ability and that the beneficiary plays an integral role in support of her spouse.

Section 101(a)(15)(O)(ii) of the Act provides classification to a qualified alien who seeks to enter the United States temporarily and solely for the purpose of accompanying and assisting in the artistic or athletic performance by an alien who is admitted as an O-1 alien for a specific event or events, is an integral part of such actual performance, has critical skills and experience with such alien which are not of a general nature and which cannot be performed by other individuals, or is the alien spouse or child of an O-1 alien and is accompanying, or following to join, the alien.

After a careful review of the record, it must be concluded that the petitioner has failed to meet its burden of proof. The status of an O-2 alien is contingent upon the status of the O-1 alien. The beneficiary's spouse was denied O-1 classification by the director and by the AAO on appeal and on motion, so the instant petition must be denied.

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 AAO decision dated March 12, 2003 is affirmed.