



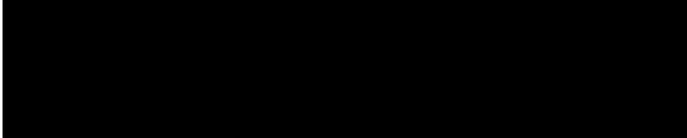
U.S. Department of Justice

Immigration and Naturalization Service

D8

**identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy**

Office of Administrative Appeals  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536



FEB 27 2003

File: EAC 02 114 53552 Office: VERMONT SERVICE CENTER Date:

IN RE: Petitioner:  
Beneficiary:



Petition: Petition for 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:



**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 CFR § 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 CFR § 103.7.

Robert P. Wiemann, Director  
Administrative Appeals Unit

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, Vermont Service Center. An appeal was dismissed by the Administrative Appeals Office (AAO). The matter is again before the AAO on motion to reopen. The motion to reopen will be granted; the petition will be approved.

The petitioner is a promoter that seeks to employ the beneficiary as a sound engineer for a period of five years. The director determined that the petitioner had not established that the beneficiary qualifies as an alien of extraordinary ability in the arts. The director also found that the petitioner had not established that the beneficiary would be coming to the United States to continue in the field of extraordinary ability. Finally, the director determined that the consultation letter provided by the beneficiary was inadequate.

The petitioner, by and through counsel, filed an appeal from the decision with an appellate brief and additional evidence. The AAO dismissed the appeal, finding that the petitioner overcame two of the director's three objections, but that the petitioner failed to provide an adequate consultation letter. On motion, counsel for the petitioner submits a new consultation letter that meets the requirements of 8 C.F.R. § 214.2(o)(5)(ii).

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has met that burden. Accordingly, the petition will be approved.

**ORDER:** The appeal is sustained; the visa petition is approved.

