

U.S. Department of Homeland Security
Citizenship and Immigration Services

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ADMINISTRATIVE APPEALS OFFICE
CIS, AAO, 20 Mass, 3/F
425 I Street, N.W.
Washington, D.C. 20536



DA

FILE: EAC 02 267 53792 Office: VERMONT SERVICE CENTER

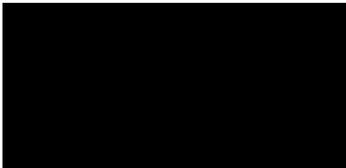
Date:

IN RE: Petitioner:
Beneficiary:



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

ON BEHALF OF PETITIONER:



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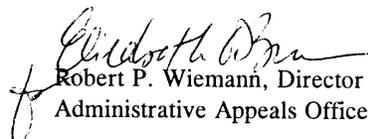
INSTRUCTIONS:

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 Citizenship and Immigration Services (CIS) 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

petitioner and the alien beneficiary or, if there is no written contract, a summary of the terms of the oral agreement under which the alien(s) will be employed;

(C) An explanation of the nature of the events or activities, the beginning and ending dates for the events or activities, and a copy of any itinerary for the events or activities; and

(D) A written consultation from a labor organization.

8 C.F.R. § 214.2(p)(6)(i) further provides:

(A) A P-3 classification may be accorded to artists or entertainers, individually or as a group, coming to the United States for the purpose of developing, interpreting, representing, coaching, or teaching a unique or traditional ethnic, folk, cultural, musical, theatrical, or artistic performance or presentation.

(B) The artist or entertainer must be coming to the United States to participate in a cultural event or events which will further the understanding or development of his or her art form. The program may be of a commercial or noncommercial nature.

The first issue to be evaluated in this proceeding is whether the petitioner established that the beneficiary is qualified as a culturally unique performer. As evidence that the beneficiary is qualified as a culturally unique performer, the petitioner submitted an attestation written by the beneficiary's attorney in Greece, Mr. [REDACTED]. The petitioner submitted an affidavit written by [REDACTED] and another written by [REDACTED].

Although affidavits may establish a beneficiary's eligibility under 8 C.F.R. § 214.2(p)(6)(ii)(A), the affidavits submitted are insufficient alone to establish that the beneficiary is a culturally unique artist. The attestation written by the beneficiary's attorney in Greece does not establish that he is a recognized expert. The affidavit of Mr. [REDACTED] president of the American Hellenic Educational Progressive Association (AHEPA), also fails to establish that he is a recognized expert. It is noted that Mr. [REDACTED] name does not appear on the AHEPA website, although the names of the current and past president are mentioned. The affidavit of [REDACTED] establishes that he is an expert but it can be given little weight since the affiant may have a pecuniary interest in the instant case as the exclusive importer and distributor for all the Greek record and production companies in the United States and Canada.

The evidence is insufficient to establish that the beneficiary is qualified as a culturally unique artist.

The next issue to be addressed in this proceeding is whether the petitioner provided CIS with an itinerary of events in which the beneficiary would participate. Only on appeal did the petitioner submit an itinerary. The itinerary lists ten events that were all scheduled within the month of October 2002. The petitioner is seeking P-3 classification of the beneficiary for a one-year period. The petitioner failed to provide an adequate itinerary to establish visa eligibility for a year.

The next issue raised by the director is whether the petitioner established that the beneficiary is coming to the United States to perform, teach or coach as a culturally unique artist in a culturally unique program.

In order to establish eligibility for P-3 classification, a petitioner must establish that the alien artist seeks admission to the United States in order to perform, teach, or coach as a culturally unique artist in a commercial or noncommercial program that is culturally unique.

In this case, the petitioner indicated on the Form I-129 petition that the beneficiary would perform a series of Greek shows featuring ethnic traditional Greek songs and music. In reply to a request for additional evidence, the petitioner submitted an affidavit written by Georgia Chletcos asserting that the beneficiary group is scheduled to perform cultural events. The petitioner submitted a consultation letter written by the American Federation of Musicians stating its opinion that the beneficiary's performances would be culturally unique.

On review, it must be concluded that the petitioner has failed to overcome the director's objections. The petitioner failed to state the basis for the American Federation of Musicians' opinion. The evidence is insufficient to establish that the beneficiary is coming to the United States to perform and teach as a culturally unique artist in a culturally unique program. It is not enough to rely on the assertions of the petitioner. Simply going on record without supporting documentary evidence is not sufficient for the purpose of meeting the burden of proof in these proceedings. *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972). Scant detail about the performances were provided with the itinerary. Only the dates and locations of the performances were provided.

The next issue raised by the director is whether the petitioner established that the beneficiary is a group. The director noted the petitioner failed to establish that the sixteen individuals listed on the petition (or the ten subsequently mentioned) are historically known as performers in the group.

8 C.F.R. § 214.2(p)(3) defines "group" as "two or more persons

established as one entity or unit to perform or to provide a service."

The petitioner provided CIS with several statements or affidavits listing the members of the beneficiary group. The director did not find the affidavits to be persuasive evidence regarding the composition of the beneficiary group. The AAO concurs. The composition of a group may change over time, but the record contains insufficient evidence establishing the group's composition. The petitioner asserted that the beneficiary group has been performing for 20 years, yet failed to produce reviews, playbills, advertising, or album credits listing the group's members' names.

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 appeal is dismissed.