

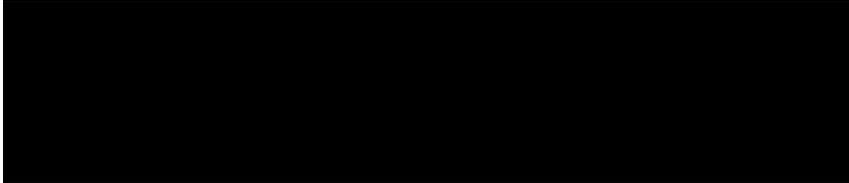
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**U.S. Citizenship  
and Immigration  
Services**



File: WAC 04 006 53687 Office: CALIFORNIA SERVICE CENTER Date: APR 13 2004

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

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:

SELF-REPRESENTED

**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.

*Mari Johnson*

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 Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The petitioner is a non-profit organization. The beneficiary is a professional Celtic harpist and singer. The petitioner filed a Form I-129, Petition for a Nonimmigrant Worker, for classification of the beneficiary under section 101(a)(15)(P)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(p)(iii), to perform at one fund-raising event on January 2, 2004. The petition was treated as a premium processing case.

In a request for additional evidence, the director requested that the petitioner submit a consultation from an appropriate labor organization. In response to the request for additional evidence, the petitioner submitted a consultation from the music director of the venue where the beneficiary was scheduled to perform.

The director denied the petition on the sole basis that the petitioner failed to provide CIS with a consultation from an appropriate labor organization, as required by the regulations. The director states that the American Guild of Musical Artists would be the appropriate labor organization. On appeal, the petitioner states that the director's request for additional evidence was too vague and that it unsuccessfully sought clarification about the required consultation from CIS. The petitioner also seeks to change the petition's validity dates from December 31, 2003 through January 7, 2004 to August 1 through August 31, 2004.

The regulation at 8 C.F.R. § 214.2(p)(7)(v) states that "[c]onsultation with an appropriate labor organization is required for P-3 petitions involving aliens in culturally unique programs . . . [o]r a labor organization may submit a letter of no objection if it has no objection to the approval of the petition."

On November 5, 2003, the petitioner was requested to provide additional information, including "a consultation with an appropriate labor organization." In response, the petitioner submitted a letter from the Director of Music at Kohl Mansion, the location of the proposed vent in California. It is unclear why the petitioner would think that this individual should be considered "an appropriate labor organization." On appeal, the petitioner claims that it attempted to contact CIS by fax, e-mail, and telephone in order to find the name of an appropriate labor organization, but received no response from CIS. The petitioner has submitted no independent evidence, such as fax or e-mail records, to document those efforts. Nevertheless, the petitioner has submitted the appropriate consultations on appeal, and has overcome the director's objection to approving the petition.

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 sustained that burden.

**ORDER:** The appeal is sustained.