



U.S. Citizenship
and Immigration
Services

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FILE: EAC 03 050 52132 Office: VERMONT SERVICE CENTER Date: APR 26 2004

JN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

PETITION: Petition for a Nonimmigrant Worker Pursuant to § 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 of the Administrative Appeals Office 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.

[Signature]
Robert P. Wiemann, Director
Administrative Appeals Office

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

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner filed a Form I-129 (Petition for a Nonimmigrant Worker) seeking an extension of the validity of the petition under section 101(a)(15)(P)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(P)(iii). The petitioner seeks to continue to employ the beneficiary temporarily for an indeterminate period.

Section 101(a)(15)(P)(iii) of the Act provides for classification of an alien having a foreign residence which the alien has no intention of abandoning who:

(I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and

(II) seeks to enter the United States temporarily and solely to perform, teach, or coach as a culturally unique artist or entertainer or with such a group under a commercial or noncommercial program that is culturally unique.

In a request for evidence the director requested the petitioner to submit a written consultation from a United States labor organization that has expertise in the area of the alien's field of endeavor. The request for evidence was sent to the petitioner's address listed on the Form I-129. The petitioner failed to comply with the request for evidence. The director denied the petition, stating that the petitioner failed to respond to a written request for additional evidence.

On appeal, the petitioner submits previously provided material and additional evidence. The petitioner failed to provide a consultation as required.

Pursuant to 8 C.F.R. § 103.2(b)(13), if all requested initial evidence and requested additional evidence are not submitted by the required date, the petition shall be considered abandoned and, accordingly, shall be denied. A denial due to abandonment may not be appealed. 8 C.F.R. § 103.2(b)(15).

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 failed to meet that burden.

ORDER: The appeal is rejected.