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U.S. Citizenship
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MAR 1 2004

FILE: EAC 02 200 52062 Office: VERMONT SERVICE CENTER Date:

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Petition for a 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)

ON BEHALF OF PETITIONER:

[REDACTED]

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.

Mari Johnson

Robert P. Wiemann, Director
Administrative Appeals Office

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 summarily dismissed.

The petitioner is a music school. The petitioner filed a Form I-129, Petition for a Nonimmigrant Worker, seeking O-1 classification of the beneficiary, as an alien with extraordinary ability in education, under section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(O)(i), in order to employ her as a piano instructor for a period of three years. The director denied the petition, finding that the petitioner failed to establish that the beneficiary satisfied the regulatory standard for an alien with extraordinary ability in education.

On appeal, counsel for the petitioner simply states as the reason for the appeal: "[t]he material originally submitted documents the beneficiary's sustained national acclaim as a music educator and master of a most demanding, revolutionary technique. The decision from which appeal is taken is fatally flawed." Counsel for the petitioner submits additional evidence on appeal.

Section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(O)(i), provides classification to a qualified alien who has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim or, with regard to motion picture and television productions, has a demonstrated record of extraordinary achievement, and whose achievements have been recognized in the field through extensive documentation, and seeks to enter the United States to continue work in the area of extraordinary ability.

The petitioner failed to address specifically the grounds for denial set forth in the decision of the director.

The regulation at 8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part:

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

Nonetheless, the additional evidence submitted on appeal will be reviewed. The petitioner submitted testimonials written by the following individuals:

- Dr. Cynthia Uitermarkt, Chair of the Sacred Music Department, Moody Bible Institute, Chicago, Illinois.
- Dr. Jeffrey E. Wright, Dean, College of the Arts, Anderson University, Anderson, Indiana.
- Dr. Eugene Alcalay, Piano Faculty, Geneva College, Beaver Falls, Pennsylvania.
- Sun Ma, Assistant Pastor, Calvary Korean United Methodist Church, East Brunswick, New Jersey.
- Pat Tuley, Chair, National Certification Commission, Music Teachers National Association, Hattiesburg, Mississippi.
- Walter Cosand, Keyboard Area Coordinator, School of Music, Arizona State University.
- Linda Fischer, violinist, Pittsburgh Symphony Orchestra, Pittsburgh, Pennsylvania.

- Dennis Smylie, clarinetist, New York, New York.

In review, the recently submitted testimonials are insufficient evidence of the beneficiary's sustained national or international acclaim. The majority of the testimonials' authors spoke of the beneficiary's talent in general terms without specifically identifying evidence of extraordinary ability. Another wrote that she "has earned a strong reputation as both a performer and master teacher in one of the most competitive and unforgiving artistic climates in the world—New York City and its surrounding metropolitan areas." This statement is insufficient evidence of sustained acclaim. Pat Tuley of the Music Teachers National Association wrote that the beneficiary's "nationwide reputation has been earned through the awards and recognition received by her students." In the absence of corroborating evidence of the beneficiary's students' awards, this assertion cannot be given any weight.

The extraordinary ability provisions of this visa classification are intended to be highly restrictive. *See* 137 Cong. Rec. S18247 (daily ed., Nov. 16, 1991). In order to establish eligibility for extraordinary ability, the statute requires evidence of "sustained national or international acclaim" and evidence that the alien's achievements have been recognized in the field of endeavor through "extensive documentation." The petitioner has not established that the beneficiary's abilities have been so recognized.

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 summarily dismissed.