

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

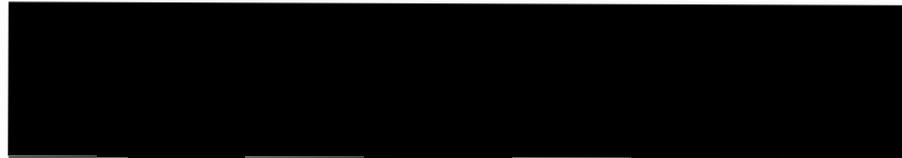
PUBLIC COPY



79

FILE: LIN 03 116 51773 Office: NEBRASKA SERVICE CENTER Date: **APR 03 2008**

IN RE: Petitioner:
Beneficiary:

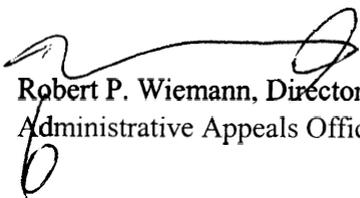


PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(P)(i) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(P)(i)

ON BEHALF OF PETITIONER:



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.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Nebraska Service Center Acting Director denied the nonimmigrant visa petition. A subsequent appeal filed with the Administrative Appeals Office (AAO) was remanded for further consideration and entry of a new decision. After requesting additional evidence, the petition was denied by the director and certified to the AAO for review. The AAO will affirm the decision of the director.

The petitioner is an artist management group and talent agency. The beneficiary is a folk music and dance ensemble. The petitioner filed a Form I-129, Petition for a Nonimmigrant Worker, seeking an extension of the validity of the petition classifying the beneficiaries under section 101(a)(15)(P)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(P)(i), as entertainers in a culturally unique program.

The director denied the petition, finding that the petitioner failed to establish that (1) the event for which the beneficiaries initially obtained status as P-3 nonimmigrants had been completed, and (2) the beneficiaries are aliens having a foreign residence which they have no intention of abandoning and thus were seeking entry to the United States on a temporary basis.

On appeal, counsel for the petitioner submitted a brief statement alleging that the prior to adjudication, the petitioner had provided an itinerary showing that the beneficiaries had been scheduled to perform well into 2004 and therefore the event for which they had originally obtained P-3 status had not been completed. In addition, counsel pointed out that sufficient evidence was submitted showing that each of the beneficiaries owned property in Belarus, and therefore intended to enter the United States on a temporary basis.

The AAO concurred with counsel's assertions, and withdrew the director's findings on these issues. However, the AAO noted that beyond the decision of the director, the oral contract between the petitioner and the beneficiaries failed to comply with the regulations at 8 C.F.R. § 214.2(p)(6)(iv)(E) for agents filing the petition. As a result, the petition was remanded to the director for further action.

On May 15, 2006, the director issued a request for evidence. The request specifically asked the petitioner to submit evidence pertaining to the wage offered to the beneficiaries, as well as any other terms of employment. The petitioner was given until August 7, 2006 to file a response.

The petitioner failed to respond to the request for evidence, and the director denied the petition of November 13, 2006. As instructed by the AAO in the decision dated February 16, 2006, the director certified the decision to the AAO for review.

The issue before the AAO is whether the director correctly denied the petition based on a conclusion that the summary of the oral contract between the petitioner and the beneficiaries was deficient.

The regulation at 8 C.F.R. § 214.2(p)(2)(iv)(E) provides that where the agent for the beneficiary is the petitioner, the petitioner is subject to the following conditions:

- (1) An agent performing the function of an employer must specify the wage offered and the other terms and conditions of employment by contractual agreement with the beneficiary or beneficiaries. The agent/employer must also provide an itinerary of

definite employment and information on any other services planned for the period of time requested.

- (2) A person or company in business as an agent may file the P petition involving multiple employers as the representative of both the employers and the beneficiary or beneficiaries if the supporting documentation includes a complete itinerary of services or engagements. The itinerary shall specify the dates of each service or engagement, the names and addresses of the actual employers, the names and addresses of the establishment, venues, or locations where the services will be performed. In questionable cases, a contract between the employer(s) and the beneficiary or beneficiaries may be required. The burden is on the agent to explain the terms and conditions of the employment and to provide any required documentation.

The summary of oral contract in the record provides no information regarding the proposed wage or compensation to be paid to the beneficiaries, as required by 8 C.F.R. § 214.2(p)(2)(iv)(E)(1). Despite being afforded the opportunity to supplement the record, the petitioner failed to respond to the director's request for wage information and other forms of compensation in the request for evidence issued on May 15, 2006. The petitioner, therefore, failed to establish that the petitioner satisfied the requirements at 8 C.F.R. § 214.2(p)(2)(iv)(E).

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not met that burden.

ORDER: The decision of the director is affirmed. The petition is denied.