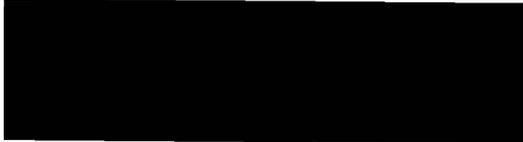


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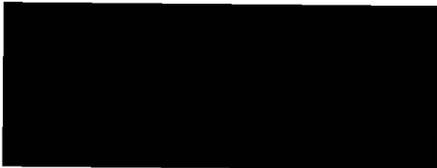
FILE: WAC 07 045 50510 Office: CALIFORNIA SERVICE CENTER Date: **JUL 25 2008**

IN RE: Petitioner:
Beneficiary:



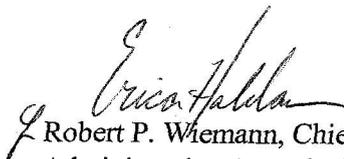
PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(P)(iii) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(P)(iii)

ON BEHALF OF PETITIONER:



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, Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the nonimmigrant visa petition in a decision dated December 11, 2007. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a non-profit cultural organization. The petitioner filed a Form I-129, Petition for a Nonimmigrant Worker, seeking classification of the beneficiaries under section 101(a)(15)(P)(iii) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(P)(iii), for a period of 3 years. The petitioner seeks to employ the beneficiaries temporarily in the United States as cultural entertainers/program coordinators.

The director denied the petition, finding that the petitioner failed to establish that the beneficiaries qualified as performers, teachers, or coaches under a commercial or noncommercial program that is culturally unique pursuant to section 101(a)(15)(P)(iii) of the Act. Specifically, the director found that the petitioner had failed to submit the required consultation from an appropriate labor organization as required by 8 C.F.R. § 214.2(p)(7)(v).

On appeal, counsel for the petitioner indicated on Form I-290B that he would submit a brief and/or additional evidence to address the director's denial within thirty days. Although counsel submitted a brief statement on the Form I-290B, it failed to adequately address the director's conclusions. In this brief statement, counsel states:

An appeal is submitted with respect to the above matter. The letter of denial was dated December [11], 2007, yet the postmark on the envelope was December 17, 2007. It is requested that a full 30 days plus the 3 days when received by mail, be afforded in this matter.

The requirements for visa classification requested were met by the petitioner and the beneficiaries and were previously submitted. The cultural program organized is within the boundaries of the P-3 visa classification, and the matter of non-profit status of the organization petitioning was also established.

It is requested that a full brief in this matter be forthcoming within 30 days.

The director provided a detailed analysis and specifically cited the deficiencies in the evidence in the course of the denial. Counsel's general objection to the denial of the petition, without specifically identifying any errors on the part of the director, is simply insufficient to overcome the well-founded and logical conclusions the director reached based on the evidence submitted by the petitioner. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

On the Notice of Appeal received on January 18, 2008, counsel for the petitioner clearly indicated that he would send a brief with the necessary evidence to the AAO within thirty days. To date there is no

indication or evidence that the petitioner ever submitted a brief and/or evidence in support of the appeal with the Service or with the AAO.¹ As stated above, absent a clear statement, brief and/or evidence to the contrary, the petitioner does not identify, specifically, an erroneous conclusion of law or statement of fact. Hence, the appeal must be summarily dismissed. *See* 8 C.F.R. § 103.3(a)(1)(v).

Regulations at 8 C.F.R. § 103.3(a)(1)(v) state, 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.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Inasmuch as the petitioner has failed to identify specifically an erroneous conclusion of law or a statement of fact in this proceeding, the petitioner has not sustained that burden.

ORDER: The appeal is summarily dismissed.

¹ On July 15, 2008, the AAO sent a fax to counsel. The fax advised counsel that no evidence or brief had been received in this matter and requested that the petitioner submit a copy of the brief and/or additional evidence, if in fact such evidence had been submitted, within five business days. As of the date of this decision, the AAO has received no response from the petitioner or counsel.