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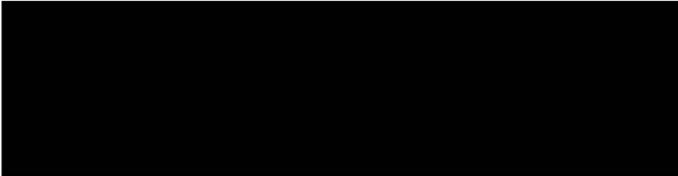


U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090

U.S. Citizenship
and Immigration
Services

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FILE: WAC 08 228 51033 Office: CALIFORNIA SERVICE CENTER Date:

OCT 16 2009

IN RE: Petitioner:
Beneficiaries:



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 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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will summarily dismiss the appeal.

The petitioner filed the nonimmigrant petition 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), as entertainers coming to the United States to perform under a culturally unique program. The petitioner is self-described as an entertainment business and the beneficiaries are singers. The petitioner seeks to employ the beneficiaries for a period of four months.

The director denied the petition, concluding that the petitioner failed to provide a written consultation from an appropriate labor organization, as required by 8 C.F.R. § 214.2(p)(2)(ii)(D).

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On appeal, the petitioner submits the following statement on Form I-290B, Notice of Appeal or Motion:

Based on Notice of decision from U.S. Citizenship and Immigration Services, there are two groups of perform art. [REDACTED] who have several time to perform sing [*sic*] in USA and other 6 members of "Culturally Unique" performing group who never perform in USA.

I suggest my company need 6 other members to be approved by U.S. Citizenship and Immigration Service.

The petitioner indicated on Form I-290B that no additional brief or additional evidence would be submitted to the AAO.

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.

The regulation at 8 C.F.R. § 214.2(p)(2)(ii) states that all petitions for P classification shall be accompanied by:

- (A) The evidence specified in the specific section of this part for the classification;

- (B) Copies of any written contracts between the petitioner and the alien beneficiary or, if there is no written contract, a summary of the terms of the oral agreement under which the alien(s) will be employed;
- (C) An explanation of the nature of the events or activities, the beginning and ending dates for the events or activities, and a copy of any itinerary for the events or activities; and
- (D) A written consultation from a labor organization.

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.

Upon review, the AAO concurs with the director's decision and affirms the denial of the petition. The petitioner has not identified any erroneous conclusion of law or statement of fact on the part of the director, nor has it submitted any evidence on appeal to overcome the director's grounds for denial of the petition. The petitioner's brief statement does not address the grounds for denial, but rather appears to consist of a suggestion that the petition be approved. The director correctly determined that the petitioner failed to provide a written consultation from a labor organization as required by the regulations. Accordingly, the appeal will be summarily dismissed.

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. Here, the petitioner has not met that burden.

ORDER: The appeal is summarily dismissed.