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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

PUBLIC COPY

U.S. Citizenship and Immigration Services

[redacted]

DATE: DEC 15 2011 Office: VERMONT SERVICE CENTER FILE: [redacted]

IN RE: Petitioner: [redacted]
Beneficiaries: [redacted]

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

ON BEHALF OF BENEFICIARY:

[redacted]

INSTRUCTIONS:
Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. 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 $630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center initially approved the nonimmigrant petition. The director subsequently issued a Notice of Intent to Revoke and, upon review of the petitioner's response, revoked the approval of the petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will summarily dismiss the appeal.

The petitioner, an entertainment promoter, filed this nonimmigrant petition seeking classification of the beneficiaries under section 101(a)(15)(P)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(P)(i)(b), as an internationally-recognized entertainment group. The petitioner requests that the beneficiaries, a 20-member band from Mexico, be granted P-1 status for a period of one year.

The director initially approved the petition on September 22, 2009. Subsequently, the U.S. Consulate General in Guadalajara, Mexico, denied the beneficiaries' applications for P-1 visas and returned the petition to the Service Center for review and possible revocation based on adverse information obtained during the beneficiaries' visa interview. The director issued a notice of intent to revoke in accordance with 8 C.F.R. § 214.2(p)(10)(iii), and ultimately revoked the approval on September 21, 2010, after reviewing the petitioner's response. The director determined that the petitioner failed to submit evidence that the beneficiary group is internationally recognized pursuant to the regulatory definition of the term and the evidentiary requirements set forth at 8 C.F.R. § 214.2(p)(4)(iii)(B)(*3*).

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, counsel for the petitioner submits the following statement on Form I-290B, Notice of Appeal or Motion:

> Basis for Appeal: The USCIS erred in its conclusions of law and fact that [the petitioner' has not demonstrated that [the beneficiary] has been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time as ample evidence was provided that demonstrates international recognition by a preponderance of the evidence and the USCIS based its conclusions on single pieces of evidence rather than on a totality of the evidence and circumstances and/or by failing to consider and/or address in its decision any special circumstances the entertainment group faces due to language barriers, music genre, etc., for a determination if a waiver of international recognition for a group recognized nationally for a sustained period is warranted.

Counsel indicated on the Form I-290B that he would submit a brief and/or additional evidence to the AAO within 30 days. Counsel submitted the appeal on October 21, 2010. As of this date, no brief or additional evidence has been provided and the record will be considered complete.

Under section 101(a)(15)(P)(i) of the Act, an alien having a foreign residence which he or she has no intention of abandoning may be authorized to come to the United States temporarily to perform services for an employer or sponsor. Section 214(c)(4)(B)(i) of the Act, 8 U.S.C. 1184(c)(4)(B)(i), provides that section 101(a)(15)(P)(i)(b) of the Act applies to an alien who:

(I) performs with or is an integral and essential part of the performance of an entertainment group that has, except as provided in clause (ii), been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time,

(II) in the case of a performer or entertainer, except as provided in clause (iii), has had a sustained and substantial relationship with that group (ordinarily for at least one year) and provides functions integral to the performance of the group, and

(III) seeks to enter the United States temporarily and solely for the purpose of performing as such a performer or entertainer or as an integral and essential part of a performance.

The evidentiary criteria for members of internationally-recognized entertainment groups are set forth at 8 C.F.R. § 214.2(p)(4)(iii). In addition, all P nonimmigrant petitions must be accompanied by the evidence set forth at 8 C.F.R. § 214.2(p)(2)(ii).

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.

As noted above, although counsel indicated that he would be submitting a brief and/or additional evidence to the AAO within 30 days, no brief or evidence has been provided for review. While counsel submitted a brief statement on the Form I-290B, counsel's general objections to the denial of the petition, without specifically identifying any errors on the part of the director, are simply insufficient to overcome the conclusions the director reached based on the evidence submitted by the petitioner. The assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter Of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). Counsel objects to the director's treatment of the evidence submitted, but fails to address any of the deficiencies addressed in the director's decision.

Counsel appears to suggest that the director failed to determine whether the petition warranted adjudication of the petition pursuant to 8 C.F.R. § 214.2(p)(4)(iii)(C)(*2*), which provides that the director may waive the international recognition requirement for certain nationally known entertainment groups in consideration of special circumstances. Counsel references "language barriers, music genre, etc." as possible "special circumstances" in this case. It is the petitioner's burden to establish eligibility for the requested visa classification. As the petitioner failed to articulate or document any claim to a waiver of the international recognition requirement prior to the adjudication of the petition, it did not meet this burden, and the failure to consider such nonexistent claim reveals no error on the part of the director. Again, without a brief or

additional evidence to support counsel's general assertions on the Form I-290B, the petitioner has not articulated sufficient grounds as a basis 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 counsel 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. Therefore, the appeal will be summarily dismissed.

ORDER: The appeal is summarily dismissed.