

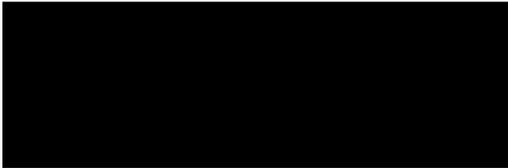
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090



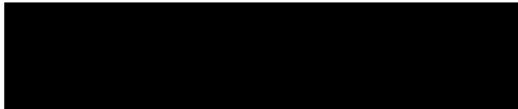
U.S. Citizenship
and Immigration
Services

D8



FILE: WAC 09 023 51293 Office: CALIFORNIA SERVICE CENTER Date: **AUG 03 2010**

IN RE: Petitioner:
Beneficiary:



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

ON BEHALF OF PETITIONER:



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 \$585. 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, 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 visa petition seeking classification of the beneficiary under section 101(a)(15)(O)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(O)(i), as an alien with extraordinary ability in the sciences, athletics, education or business. The petitioner states that it is a talent management agency. The beneficiary was previously granted O-1 status as an alien with extraordinary ability in the arts and the petitioner now seeks to extend his status for two additional years. The petitioner indicates that the beneficiary will work as a fashion model.

The director denied the petition on August 4, 2009, concluding that the petitioner failed to provide evidence to establish: (1) that it is doing business as an agent or employer in the United States; (2) that the beneficiary has worked for the petitioner in the two years since his original O-1 petition was approved; or (3) that the beneficiary has worked as a fashion model in the two years since his original O-1 petition was approved. In denying the petition, the director noted that the petitioner failed to submit a complete response to a request for additional evidence ("RFE") issued on March 27, 2009.

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 indicated on the Form I-290B, Notice of Appeal or Motion, that a brief and/or additional evidence will be submitted to the AAO within 30 days. The petitioner filed the appeal on September 8, 2009. As of this date, nearly 11 months have passed and the AAO has not received the brief or additional evidence as indicated on the Form I-290B. Accordingly, the record will be considered complete.

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.

On appeal, the petitioner does not identify an erroneous conclusion of law or statement of fact on the part of the director as a basis for the appeal. As noted above, the petitioner stated that it would submit a brief at a later date and has failed to do so. Accordingly, the AAO will summarily dismiss the appeal.

The denial of this petition is without prejudice to the filing of a new petition by the petitioner accompanied by the appropriate supporting evidence and fee.

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 support of the appeal, the petitioner has not sustained that burden.

ORDER: The appeal is summarily dismissed.