

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy

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

**PUBLIC COPY**

58.

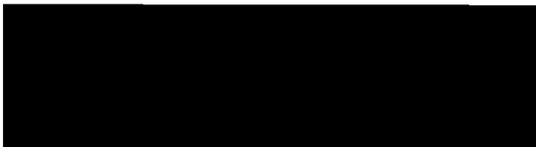


FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: **NOV 02 2010**

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

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

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. The fee for a Form I-290B is currently \$585, but will increase to \$630 on November 23, 2010. Any appeal or motion filed on or after November 23, 2010 must be filed with the \$630 fee. 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 athletics. The petitioner, a dance school, seeks to employ the beneficiary as a dance instructor for a period of three years.

The director denied the petition on March 8, 2010, concluding that the petitioner failed to establish that the beneficiary has achieved sustained national or international acclaim as a ballroom dance instructor or that she is among the small percentage at the very top of her field.

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 the Form I-290B, Notice of Appeal or Motion, counsel for the petitioner states:

We feel that the Service Center Director was erroneous in this interpretation of the supplemental documents filed with the nonimmigrant visa petition and the response to the request for further evidence which led to the denial. We will provide additional evidence to the Administrative Appeals Office within 30 days.

The petitioner filed the appeal on April 8, 2010. As of this date, more than six 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 specifically an erroneous conclusion of law or statement of fact on the part of the director as a basis for the appeal. Counsel's unsupported and general assertion that the petition was denied in error is insufficient. As noted above, counsel stated that he would submit additional evidence in support of the appeal 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.



Page 3

**ORDER:** The appeal is summarily dismissed.