

Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

(b)(6)

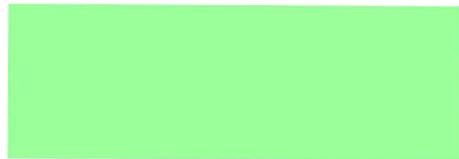


Date: **OCT 04 2013** Office: VERMONT SERVICE CENTER FILE:

IN RE: Petitioner:   
Beneficiary:

PETITION: Petition for a Nonimmigrant Worker under 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 (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you

Ron Rosenberg  
Chief, Administrative Appeals Office

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

On September 26, 2012, the petitioner filed this nonimmigrant petition seeking to classify the beneficiary pursuant to 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 arts. The petitioner seeks to temporarily employ the beneficiary in the position of a fine artist. The petitioner requests that the beneficiary be granted O-1 classification for a period of three years.

The director denied the petition, finding that the petitioner had failed to establish that the beneficiary qualifies as an alien of extraordinary ability in the arts. The director determined that the petitioner failed to establish that the beneficiary meets the evidentiary criterion at 8 C.F.R. § 214.2(o)(3)(iv)(A), or any of the six evidentiary criteria set forth at 8 C.F.R. § 214.2(o)(3)(iv)(B).

A review of U.S. Citizenship and Immigration Services (USCIS) records indicates that a different petitioner filed a separate Form 1-129, Petition for a Nonimmigrant Worker, also on September 26, 2012 (EAC-12-253-51623). USCIS approved the petition on October 10, 2012, and granted the beneficiary O-1 status from October 10, 2012 to September 23, 2015. While the petitioner has not withdrawn the appeal in this proceeding, it would appear that the beneficiary is presently authorized for employment with a different U.S. petitioner in O-1 status and the issues in this proceeding are moot.

Accordingly, the AAO finds that the beneficiary's current nonimmigrant status deprives this appeal of any practical significance. Considerations of prudence warrant the dismissal of the appeal as moot. *See Matter of Luis*, 22 I&N Dec. 747, 753 (BIA 1999).

**ORDER:** The appeal is dismissed as moot.