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**U.S. Citizenship
and Immigration
Services**

D9

FILE: EAC 04 146 50080 Office: VERMONT SERVICE CENTER

Date: **DEC 14 2005**

IN RE: Petitioner:
Beneficiary:

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.

A handwritten signature in cursive script that reads "Robert P. Wiemann".

S Robert P. Wiemann, Director
Administrative Appeals Office

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

The petitioner filed a Form I-129 (Petition for a Nonimmigrant Worker) seeking classification of the beneficiary 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 an entertainer in a culturally unique program.

The petitioner filed the instant petition on April 16, 2004. Finding the evidence insufficient, on August 12, 2004, the director requested the petitioner to submit a written consultation, and evidence establishing that the beneficiary's performance would be culturally unique. In response, the petitioner submitted a written consultation dated August 12, 2004, signed by [REDACTED] the American Guild of Musical Artists.

The director determined that the petitioner satisfied the requirement of a written consultation; however, the director denied the petition, finding that the petitioner failed to establish that the beneficiary qualifies for classification under section 101(a)(15)(p)(iii) of the Act.

On appeal, the beneficiary submits a new consultation dated January 25, 2005, signed by [REDACTED] of the American Guild of Musical Artists.

The regulation at 8 C.F.R. § 103.3(a)(1)(iii) states that, for purposes of appeals, certifications, and reopening or reconsideration, *affected party* (in addition to the Citizenship and Immigration Services) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

The regulation at 8 C.F.R. § 103.3(a)(2)(v) states that an appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

The appeal has not been filed by the petitioner, nor by any entity with legal standing in the proceeding, but rather by the beneficiary. Therefore, the appeal has not been properly filed, and must be rejected.

ORDER: The appeal is rejected.