

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



U.S. Citizenship
and Immigration
Services

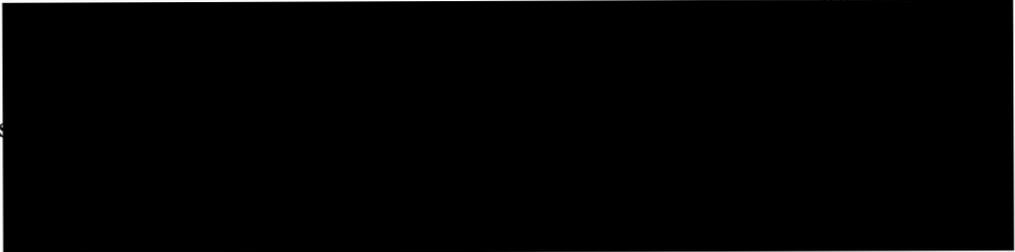
Dg

PUBLIC COPY



FILE: WAC 06 119 52449 Office: CALIFORNIA SERVICE CENTER Date: 2 5 2006

IN RE: Petitioner:
Beneficiaries



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:



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.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a "Latin American Theater Production Company" which seeks classification of the beneficiaries under section 101(a)(15)(P)(iii) of the Immigration and Nationality Act (the Act), as entertainers in a culturally unique program.

The director denied the petition, finding that the petitioner failed to establish that the beneficiaries are skilled in performing a culturally unique art form and that the beneficiaries seek admission to participate solely in cultural events.

The petitioner, through counsel, submits a timely appeal.

Section 101(a)(15)(P)(iii) of the Act, provides for classification of an alien having a foreign residence which the alien has no intention of abandoning who:

- (I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and
- (II) seeks to enter the United States temporarily and solely to perform, teach, or coach as a culturally unique artist or entertainer or with such a group under a commercial or noncommercial program that is culturally unique.

8 C.F.R. § 214.2(p)(3) provides, in pertinent part, that:

Culturally unique means a style of artistic expression, methodology, or medium which is unique to a particular country, nation, society, class, ethnicity, religion, tribe, or other group of persons.

8 C.F.R. § 214.2(p)(2)(ii) states that all petitions for P classification shall be accompanied by:

- (A) The evidence specified in the specific section of this part for the classification;
- (B) Copies of any written contracts between the petitioner and the alien beneficiary or, if there is no written contract, a summary of the terms of the oral agreement under which the alien(s) will be employed;
- (C) An explanation of the nature of the events or activities, the beginning and ending dates for the events or activities, and a copy of any itinerary for the events or activities; and
- (D) A written consultation from a labor organization.

8 C.F.R. § 214.2(p)(6)(i) further provides:

- (A) A P-3 classification may be accorded to artists or entertainers, individually or as a group, coming to the United States for the purpose of developing, interpreting, representing, coaching,

or teaching a unique or traditional ethnic, folk, cultural, musical, theatrical, or artistic performance or presentation.

(B) The artist or entertainer must be coming to the United States to participate in a cultural event or events which will further the understanding or development of his or her art form. The program may be of a commercial or noncommercial nature.

The first issue to be addressed in this proceeding is the director's finding that the evidence does not demonstrate the "authenticity of the alien's or the group's skills in performing, presenting, coaching or teaching the unique or traditional art form." There is no requirement in either the statute or the regulations that the beneficiary demonstrate the authenticity of their skills in the cultural art form. Accordingly, we withdraw this particular finding of the director.

The second issue to be addressed in this proceeding is whether the petitioner has established that the beneficiaries seek admission in order to participate solely in a cultural event. The director determined, and the AAO concurs, that the petitioner failed to establish that the beneficiaries' performances would be culturally unique.

The record reflects that the beneficiaries are actors who are coming to the United States to perform in a play entitled, "[REDACTED]" Counsel contends that the play was written by "one of the most popular actors in Latin America," and that the cast members "are extremely popular with Latin Americans." While we do not dispute the popularity of the play's author or the cast members, their popularity does not make the play culturally unique. Counsel also asserts that the play is culturally unique because it "has a different type of story than English-language soap operas, with a plot never having been shown on American soap operas." Such an assertion is equally unconvincing; the fact that a play is original is not tantamount to the play being culturally unique.

Accordingly, we concur with the finding of the director that the petitioner has failed to establish that the beneficiaries would be coming to the United States for the purpose of developing, interpreting, representing, coaching, or teaching a unique or traditional ethnic, folk, cultural, musical, theatrical, or artistic performance or presentation.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not met that burden.

ORDER: The appeal is dismissed.