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U.S. Citizenship
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FILE: WAC 07 235 52810 Office: CALIFORNIA SERVICE CENTER Date: **JUL 17 2008**

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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)

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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 Director, California Service Center, denied the nonimmigrant visa petition in a decision dated January 23, 2008. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be rejected.

The petitioner is an entertainment company. The petitioner filed a Form I-129, Petition for a Nonimmigrant Worker, seeking classification of the beneficiary under section 101(a)(15)(P) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(P), for a period of 1 year. The petitioner seeks to employ the beneficiary temporarily in the United States as a Chinese acrobat performer.

The director denied the petition, finding that the petitioner failed to establish that the beneficiary qualifies as a performer, teacher, or coach under a commercial or noncommercial program that is culturally unique pursuant to section 101(a)(15)(P)(iii) of the Act. Specifically, the director found that the petitioner failed to submit a written consultation form a labor organization with expertise in the beneficiary's field, as required by the statute and regulations.

The Form I-290B that was submitted on appeal was signed by the beneficiary, not by the petitioner or an authorized representative of the petitioner. Citizenship and Immigration Services (CIS) regulations specifically prohibit a beneficiary of a visa petition, or a representative acting on a beneficiary's behalf, from filing a petition; the beneficiary of a visa petition is not a recognized party in a proceeding. 8 C.F.R. § 103.2(a)(3). Although Form I-290B lists the contact information for the petitioner's counsel, the form is prepared and signed by the beneficiary, not counsel or an authorized representative of the petitioner. As the beneficiary is not a recognized party, the beneficiary is not authorized to file an appeal. 8 C.F.R. § 103.3(a)(1)(iii)(B).

As the appeal was not properly filed, it will be rejected. 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

Furthermore, it is noted for the record that, had the appeal been properly filed, it would be summarily dismissed. The Form I-290B contains the following statement:

Please be aware that [the beneficiary] is the real acrobat in this case. Also, [the beneficiary] is willing to provide all relative document to prove her identity if your office needs it to process this case.

This brief statement does not even address, much less attempt to overcome, the stated grounds for denial of the petition. No other evidence is submitted in support of the appeal, nor is it indicated on the Form I-290B that the petitioner intended to supplement the appeal with a brief or additional evidence. Regulations at 8 C.F.R. § 103.3(a)(1)(v) require the summary dismissal of any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

ORDER: The appeal is rejected.