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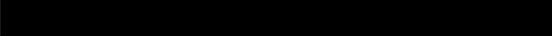
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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090
**U.S. Citizenship
and Immigration
Services**



D9

DATE **APR 24 2012** Office: CALIFORNIA SERVICE CENTER FILE: 

IN RE: Petitioner: 
Beneficiary: 

Petition: Petition for a Nonimmigrant Worker under 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:

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.


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 rejected as untimely filed.

The petitioner states that it is an African traditional and Christian music performance organization. It filed the instant petition seeking to classify the beneficiaries as a P-3 nonimmigrants pursuant to section 101(a)(15)(P)(iii) of the Immigration and Nationality Act (the Act), as a group coming to the United States to perform, teach or coach under a culturally unique program pursuant to section 101(a)(15)(P)(iii).

The director denied the petition on July 11, 2011, concluding that the petitioner failed to submit evidence that the beneficiaries possesses culturally unique skills as artists or entertainers or that all of their performances or presentations would be culturally unique events. The director also noted that the petitioner failed to submit a required labor consultation.

The petitioner filed the Form I-129, Petition for a Nonimmigrant Worker, May 11, 2011, but did not subsequently submit the required initial evidence in support of the petition. Specifically, the petitioner failed to submit the required labor consultation. The director subsequently issued a Request for Evidence (RFE), granting the petitioner 30 days to provide documentary evidence demonstrating that the beneficiaries meet the statutory and regulatory criteria. In response to the RFE, the petitioner submitted a letter from an organization that does not meet the requirements for an appropriate labor consultation and therefore, the director subsequently denied the petition based on insufficient evidence of eligibility for the P-3 classification.

On August 17, 2011, the petitioner filed a Form I-290B, Notice of Appeal or Motion, indicating that it would submit a brief and/or additional evidence within 30 days. An affected party filing from within the United States has 30 days from the date of an adverse decision to file an appeal. An appeal received after the 30-day period has tolled will not be accepted. The 30-day period for submitting an appeal begins 3 days after the Notice of Decision is mailed. 8 C.F.R. § 103.8(b).

The record reflects that the director sent his decision of July 7, 2011 to the petitioner at its addresses of record. United States Citizenship and Immigration Services (USCIS) received the appeal 39 days later on August 17, 2011. Therefore, the appeal was untimely filed.

ORDER: The appeal is rejected as untimely filed.