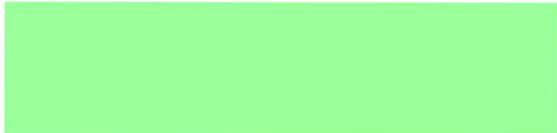


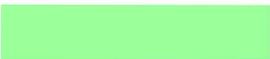


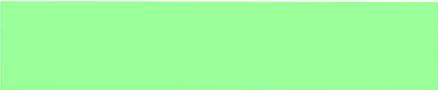
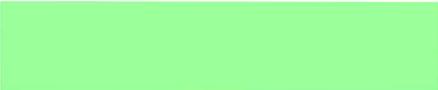
U.S. Citizenship
and Immigration
Services

(b)(6)



Date: **MAR 19 2014**

Office: CALIFORNIA SERVICE CENTER FILE: 

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:

PRO SE¹

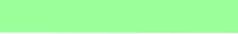
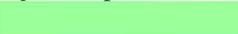
INSTRUCTIONS:

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

¹ Although the instant Form I-290B lists  as the C/O (in care of) correspondent and the business address of  as the appellant's mailing address, the instant Form I-290B indicates that the motion is not being filed by an attorney or representative. The instant Form I-290B was also not accompanied by a new Form G-28 authorizing  or its associates to represent the appellant in these proceedings. As such, the AAO considers the instant motion to have been filed *pro se*.

DISCUSSION: The California Service Center Director denied the nonimmigrant visa petition. The Administrative Appeals Office (AAO) dismissed the appeal, and dismissed a subsequent motion to reopen. The matter is once again before the AAO on a motion to reconsider. The motion to reconsider will be dismissed.

The petitioner in this case is [redacted] a martial arts school. The petitioner filed the nonimmigrant petition on behalf of the beneficiary, Hong Peng Wang, seeking to employ him as a martial arts instructor for a period of one year.

The director denied the petition, concluding that the petitioner failed to establish that the beneficiary possesses culturally unique skills as an artist or entertainer or that all of his performances or presentations would be culturally unique events. The director further found that the beneficiary is neither an artist nor an entertainer, but an athlete and athletic coach, and as such, his proposed activities do not fall within the plain language of the statute at section 101(a)(15)(P)(iii)(I) of the Act, or within the regulatory definition of “arts.”

The petitioner filed an appeal to the AAO, which the AAO summarily dismissed and affirmed the denial of the petition on all stated grounds. A motion to reopen was subsequently filed, which the AAO dismissed for failing to meet the requirements for a motion to reopen.

The beneficiary now files the instant motion to reconsider.² On the instant Form I-290B, the beneficiary states, in pertinent part: “I don’t understand why i am allowed to be a coach under one section and then not in another. i also provided documents showing that the art form of martial arts i am teaching is culturally unique . . . I am a coach of culturally unique art form and not an athletic discipline. Because of this, i don’t understand why the director’s determination was correct [sic].”

The regulation at 8 C.F.R. § 103.5(a) states, in pertinent part, regarding motions to reopen and reconsider:

(1) *When filed by affected party—*

- (i) *General.* Except where the Board has jurisdiction and as otherwise provided . . . , when the affected party files a motion, the official having jurisdiction may, for proper cause shown, reopen the proceeding or reconsider the prior decision

* * *

- (iii) *Filing Requirements—* A motion shall be submitted on Form I-290B and may be accompanied by a brief. It must be:

- (A) In writing and signed by the affected party or the attorney or representative of record, if any;

² See *supra* footnote 1.

(B) Accompanied by a nonrefundable fee as set forth in § 103.7;
[and]

(C) Accompanied by a statement about whether or not the validity of the unfavorable decision has been or is the subject of any judicial proceeding and, if so, the court, nature, date, and status or result of the proceeding.

* * *

(4) *Processing motions in proceedings before the Service.* A motion that does not meet applicable requirements shall be dismissed

The regulation at 8 C.F.R. § 103.3(a)(1)(iii)(B) defines the term “affected party” as:

For purposes of this section and §§ 103.4 and 103.5 of this part, *affected party* (in addition to the Service) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.

The beneficiary of a visa petition is not an “affected party” with legal standing to file a motion to reopen or motion to reconsider. 8 C.F.R. § 103.3(a)(1)(iii)(B); *Matter of Dabaase*, 16 I&N Dec. 720 (BIA 1979) (the beneficiary does not have standing to move to reopen visa petition proceedings). As the beneficiary filed the instant motion seeking to reconsider the denial of the visa petition filed on his behalf, the instant motion was not filed by an “affected party” pursuant to 8 C.F.R. § 103.5(a)(1)(iii). Accordingly, the instant motion must be dismissed for failing to meet the applicable filing requirements. 8 C.F.R. § 103.5(a)(4).

In addition, the instant motion does not contain a statement about whether or not the validity of the unfavorable decision has been or is the subject of any judicial proceeding, as required at 8 C.F.R. § 103.5(a)(1)(iii)(C). For this additional reason, the motion must also be dismissed.

The motion will be dismissed, the proceedings will not be reconsidered, and the previous decisions of the director and the AAO will not be disturbed.

ORDER: The motion to reconsider is dismissed.