



U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536



D9  
Public Copy

File: EAC-00-046-52230 Office: Vermont Service Center Date:

DEC 8 2000

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

Petition: Petition for a Nonimmigrant Worker Pursuant to § 101(a)(15)(P)(ii) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(P)(ii)

IN BEHALF OF PETITIONER: Self-represented

Identifying data removed to prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

Mary C. Mulrean, Acting Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is the agent for a theater company. She filed a Form I-129 (Petition for a Nonimmigrant Worker) seeking classification of the company under section 101(a)(15)(P)(ii) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(P)(ii). The petitioner seeks classification of the beneficiary company to be employed temporarily in the United States for a three-performance tour over a period of approximately two weeks under a reciprocal exchange agreement. The director found that the petitioner is a foreign entity/agent and ineligible to petition an alien entertainment group for P-2 classification.

On appeal, the petitioner requested that the petition be reconsidered as if filed by a qualifying United States employer and identified a United States theater company that has actually contracted for one of the beneficiary company's performances.

Section 101(a)(15)(P)(ii) of the Act, provides for classification of an alien 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 for the purpose of performing as such an artist or entertainer or with such a group under a reciprocal exchange program between an organization or organizations in the United States and an organization or organizations in one or more foreign states and which provides for the temporary exchange of artists and entertainers;....

8 C.F.R. 214.2(p)(2) states, in pertinent part, that:

(i) ...A P-2 petition for an artist or entertainer in a reciprocal exchange program shall be filed by the United States labor organization which negotiated the reciprocal exchange agreement, the sponsoring organization, or a United States employer...

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(iv)(B) *Services for more than one employer.* If the beneficiary or beneficiaries will work for more than one employer within the same time period, each employer must file a separate petition with the Service Center that has jurisdiction over the area where the alien will perform

the services, unless an agent files the petition pursuant to paragraph (p) (2) (iv) (E) of this section.

The beneficiary in this matter is the [REDACTED] a four-person children's theater group based in [REDACTED]. The petitioner is the group's administrator/general manager in Canada. The petitioner submitted a letter from Actors' Equity Association of the United States stating that they have a reciprocal exchange agreement with the Canadian Actors' Equity Association and have no objection to the performance of the beneficiary theater company. The petitioner submitted an itinerary identifying three United States performances with three separate employers in the company's tour. The center director denied the petition finding that the petition was filed by the foreign agent and thereby was improperly filed.

The petitioner did not dispute the director's finding of fact in the decision. Rather, the petitioner submitted a letter from the marketing director of [REDACTED] Inc., [REDACTED] stating that it is the sponsor of one of the beneficiary company's performances in the United States and that it "would like to file a petition in support of the appeal" of the instant petition.

On review, it is clear that the petition was improperly filed by the manager of the foreign entertainment group itself. This defect cannot be corrected on appeal, but requires the filing of an amended petition or petitions identifying the new employer or employers. See 8 C.F.R. 214.2(p) (2) (iv) (D).

It is noted that the theater company's tour will involve more than one employer and there is no documentation that Theatreworks Inc. is authorized to act as agent on the beneficiary's behalf for its entire tour pursuant to 8 C.F.R. 214.2(p) (2) (iv) (E).

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.