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U.S. Citizenship and Immigration Services

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[redacted]

FILE: EAC 99 042 55318 Office: VERMONT SERVICE CENTER Date: JAN 21 2004

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:

[redacted]

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.

for Mari Johnson
Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The decision of the director will be withdrawn and the petition will be remanded for further action and consideration.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability in the arts. The director determined the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability.

The director, in denying the petition, stated "the evidence falls far short of establishing that the beneficiary is one of the top choreography and dance instructors or that she has enjoyed sustained national or international acclaim." The director offers no detailed discussion of the evidence, nor any other explanation as to how this conclusion was reached. The director simply offered the perfunctory conclusion that the evidence is deficient.

On appeal, counsel protests that the director offered no "specific and rational explanation" to justify the conclusion that the petitioner is ineligible for the classification sought. We concur that the director failed to explain the grounds underlying the decision. Therefore, the petitioner has not had a meaningful opportunity to rebut those grounds on appeal.

Therefore, this matter will be remanded. The director may request any additional evidence deemed warranted and should allow the petitioner to submit additional evidence in support of its position within a reasonable period of time. As always in these proceedings, the burden of proof rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361.

We note that the petitioner is already the beneficiary of two approved immigrant visa petitions, and filed an adjustment application in June 2000. Because the AAO has not examined the records of proceeding relating to the approved petitions, we cannot offer any comparison between those petitions and the petition in the present proceeding.

ORDER: The director's decision is withdrawn. The petition is remanded to the director for further action in accordance with the foregoing and entry of a new decision which, if adverse to the petitioner, is to be certified to the Administrative Appeals Office for review. Any new decision of denial must specify the grounds underlying the finding of ineligibility.