U.S. Department of Justice

Immigration and Naturalization Service

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

[redacted]

PUBLIC COPY

MAR - 7 2001

FILE: SRC-99-188-51713 Office: Texas Service Center Date:

IN RE: Petitioner:
Beneficiary: [redacted]

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

IN BEHALF OF PETITIONER: Self-represented

identification data deleted 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

Robert P. Wiemann, Acting Director
Administrative Appeals Office

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

The petitioner in this matter is an individual. The beneficiary is a ten-member musical group. He filed a Form I-129 (Petition for a Nonimmigrant Worker) seeking classification of the beneficiary group under section 101(a)(15)(P)(iii) of the Immigration and Nationality Act (the "Act"), 8 U.S.C. 1101(a)(15)(P)(iii). The petitioner seeks classification of the musical group to participate temporarily in an unstated musical event in the United States for an unstated period of time.

Section 101(a)(15)(P)(iii) of the Act, provides for classification of an alien having a foreign residence which the alien has no intention of abandoning 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 to perform, teach, or coach as a culturally unique artist or entertainer or with such a group under a commercial or noncommercial program that is culturally unique.

The record shows that the petition was filed on or about June 7, 1999. The petitioner filed an outdated Form I-129 seeking H1B4 classification of the beneficiary. In a notice dated August 23, 1999, the center director advised the petitioner that the P-3 classification had superseded the H1B4 classification. The center director provided the petitioner with the revised Form I-129 and advised the petitioner of the required documentation to support the petition. The petitioner was advised to submit copies of any written contracts with the beneficiary, a consultation from a labor organization, an explanation of the event in which the beneficiary would perform, and documentation that the performance would be culturally unique.

The petitioner responded by submitting a Spanish language document and a list of U.S. Spanish-language radio stations, but no documentation responsive to the director's request. The director therefore denied the petition based on the failure to submit the required documentation.

On appeal, the petitioner inquired into the status of his petition and submitted a Spanish-language newspaper clipping.

8 C.F.R. 214.2(p)(3) provides, in pertinent part, that:

Culturally unique means a style of artistic expression, methodology, or medium which is unique to a particular country, nation, society, class, ethnicity, religion, tribe, or other group of persons.

8 C.F.R. 214.2(p)(6)(i) further provides:

(A) A P-3 classification may be accorded to artists or entertainers, individually or as a group, coming to the United States for the purpose of developing, interpreting, representing, coaching, or teaching a unique or traditional ethnic, folk, cultural, musical, theatrical, or artistic performance or presentation.

(B) The artist or entertainer must be coming to the United States to participate in a cultural event or events which will further the understanding or development of his or her art form. The program may be of a commercial or noncommercial nature.

8 C.F.R. 214.2(p)(2)(ii) states that all petitions for P classification shall be accompanied by:

(A) the evidence specified in the specific section of this part for the classification;

(B) Copies of any written contracts between the petitioner and the alien beneficiary or, if there is no written contract, a summary of the terms of the oral agreement under which the alien(s) will be employed;

(C) An explanation of the nature of the events or activities, the beginning and ending dates for the events or activities, and a copy of any itinerary for the events or activities; and

(D) A written consultation from a labor organization.

8 C.F.R. 214.2(p)(6)(ii) states that a petition for P-3 classification shall be accompanied by:

(A) Affidavits, testimonials, or letters from recognized experts attesting to the authenticity of the alien's or the group's skills in performing, presenting, coaching, or teaching the unique or traditional art form and giving the credentials of the expert, including the basis of his or her knowledge of the alien's or group's skill, or

(B) Documentation that the performance of the alien or group is culturally unique, as evidenced by reviews in newspapers, journals, or other published materials; and

> (C) Evidence that all of the performances or presentations will be culturally unique events.

As noted by the center director, the petitioner failed to provide the above specified documentation or the documentation listed in the director's notice. It is further noted that the Form I-129 was not completed in full.

The petitioner failed to overcome these documentary deficiencies on appeal. In an undated letter, the petitioner subsequently advised the Service of his change of address and submitted receipts showing that he had successfully obtained H-2 classification of his clients in the past. However, the petitioner did not address the basis for denial of the petition.

8 C.F.R. 103.3(a)(1)(v) further states that:

> An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

Inasmuch as the petitioner has failed to identify specifically any erroneous conclusion of law or a statement of fact in this proceeding, the appeal must be summarily dismissed.

ORDER: The appeal is summarily dismissed.