D9

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

[redacted] **Public Copy**

MAR 7 2001

File: LIN-00-051-50463 Office: Nebraska Service Center Date:

IN RE: Petitioner:
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

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, Nebraska Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a dance school. The beneficiary is described as a professional ballroom dancer. The petitioner filed a Form I-129 (Petition for a Nonimmigrant Worker) seeking classification of the beneficiary under section 101(a)(15)(P)(ii) of the Immigration and Nationality Act (the "Act") as an artist or entertainer seeking to perform in the United States under an international reciprocal exchange program. The petitioner stated on the petition form that it seeks P-2 classification of the beneficiary in order to employ him temporarily in the United States as a dance instructor for a period of one year.

The director denied the petition finding that the petitioner failed to establish that the proffered position involved an international reciprocal exchange agreement.

On appeal, a representative of the petitioning school expressed confusion regarding the appropriate procedure to follow to gain work authorization for the beneficiary. The representative stated that the beneficiary and his spouse were ranked #2 in competitive ballroom dancing in Estonia and are highly qualified dance instructors.

Section 101(a)(15)(P) of the Act provides nonimmigrant classification to artists, athletes and entertainers under three primary classifications. In brief, P-1 classification applies to internationally recognized athletes or athletic teams seeking to perform at specific events. P-2 classification applies to artists or entertainers seeking to perform under a reciprocal exchange agreement between a U.S. organization and a foreign organization. P-3 classification applies to artists or entertainers seeking to perform, teach or coach in a culturally unique program.

The instant petition was filed seeking P-2 classification. Section 101(a)(15)(P)(ii) of the Act, provides for P-2 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...

The beneficiary in this matter is described as a competitive ballroom dancer and the petitioner seeks to employ him as a dance instructor in its dance school. As stated in the center director's decision, the petitioning dance school is not a party to an international reciprocal exchange program. The petitioner did not address this issue as the basis for denial of the petition in its statement on appeal. Accordingly, the petitioner has not overcome the grounds for denial.

The burden of proof in visa petition proceedings remains entirely with the petitioner. § 291 of the Act, 8 U.S.C. 1361. Here, the petitioner has not met that burden.

ORDER: The appeal is dismissed.