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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



02 JUL 2002

FILE: EAC-01-101-54527 Office: Vermont Service Center Date:

IN RE: Petitioner:
Beneficiary:



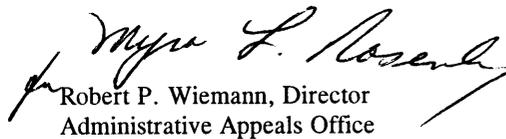
Petition: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(P)(iii) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(P)(iii)

IN BEHALF OF PETITIONER: Self-represented

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.

Public Copy

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS


Robert P. Wiemann, 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 rejected.

The petitioner in this matter is described as a Chinese music ensemble. The beneficiary is a musician. The petitioner filed a Form I-129 (Petition for a Nonimmigrant Worker) seeking P-3 classification of the beneficiary, under section 101(a)(15)(P)(iii) of the Immigration and Nationality Act (the "Act"), as a performing artist in a culturally unique field. The petitioner seeks an extension of stay and classification for new employment in order to employ the beneficiary for one year at a salary of \$300 per week. The petitioner was not represented by counsel.

The director denied the petition finding that the petitioner failed to submit a schedule of performances sufficient to justify the period of time requested.

Counsel for the beneficiary filed a Form I-290B (Notice of Appeal) accompanied by a Form G-28 (Notice of Entry or Appearance as Attorney or Representative) signed by the beneficiary.

8 C.F.R. 103.3(a)(1)(iii) states, in pertinent part:

(B) *Meaning of affected party.* For purposes of this section and sections 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. (Emphasis added.)

8 C.F.R. 103.3(a)(2)(v) states:

Improperly filed appeal--(A) Appeal filed by person or entity not entitled to file it--(1) Rejection without refund of filing fee. An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

The appeal has not been filed by the petitioner, nor by any entity with legal standing in the proceeding; but rather, by counsel for the beneficiary. Therefore, the appeal has not been properly filed and must be rejected.

The denial of this petition is without prejudice to the petitioner filing a new petition.

ORDER: The appeal is rejected.