D9

U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

[redacted]

*ADMINISTRATIVE APPEALS OFFICE*
*425 Eye Street N.W.*
*BCIS, AAO, 20 Mass, 3/F*
*Washington, D.C. 20536*

FILE: WAC 03 056 54425 Office: CALIFORNIA SERVICE CENTER Date: AUG 20 2003

IN RE: Petitioner: [redacted]
Beneficiaries: [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)(iii)

ON BEHALF OF PETITIONER:

[redacted]

PUBLIC COPY

INSTRUCTIONS:

This is the decision 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.

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 that 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 Bureau of Citizenship and Immigration Services (Bureau) 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 that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a producer and provider of entertainment. The beneficiary is the technical staff to the Pepperonis, a group of professional singers, actors and comedians.

The petitioner seeks P-3 classification of the beneficiary under section 101(a)(15)(P)(iii) of the Immigration and Nationality Act (the Act), as essential support aliens to an entertainment group.

The director denied the petition, finding that the beneficiaries did not qualify as essential support aliens under the pertinent regulations because the Form I-129 petition seeking the principal performers' services was denied.

Counsel for the petitioner appealed the decision, stating that the petitioner was appealing the denial of the principal performers' petition to the AAO.

In review, the AAO denied the appeal of the principal performers; therefore, the beneficiaries are not eligible for classification as support aliens.

Beyond the decision of the director, the petitioner failed to establish that the beneficiaries are essential to the performance of the primary entertainment group. Since the appeal will be dismissed for the reason stated above, this issue will not be discussed further.

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.