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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

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

[redacted]

File: WAC 02 151 51196 Office: CALIFORNIA SERVICE CENTER Date: AUG 20 2003

IN RE: Petitioner:
Beneficiary: [redacted]

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

ON BEHALF OF PETITIONER:

PUBLIC COPY

SELF-REPRESENTED

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 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 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 on appeal. The appeal will be dismissed.

The petitioner is an agent for the beneficiary band. The beneficiaries of the instant petition are nine members[1] of a professional entertainment group known as [redacted] The petitioner filed a Form I-129 (Petition for a Nonimmigrant Worker) seeking classification of nine members of the group named in the petition for a one-year period as an internationally recognized entertainment group under section 101(a)(15)(P)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(P)(i).

The director denied the petition, finding that the petitioner failed to establish that the beneficiary has been internationally recognized in the discipline for a sustained and substantial period of time as required in the regulations.

On appeal, the petitioner submits additional evidence and argues the beneficiary is an international group in the United States and Mexico. On appeal, the petitioner also asserts that the beneficiary previously received a visa for its members.

When a petition is filed for an internationally recognized entertainment group, the petitioner must establish that the group has been internationally recognized in the discipline for a sustained and substantial period of time. 8 C.F.R. § 214.2(p)(3) defines *internationally recognized* to mean:

> [H]aving a high level of achievement in a field evidenced by a degree of skill and recognition substantially above that ordinarily encountered, to the extent that such achievement is renowned, leading, or well-known in more than one country.

8 C.F.R. § 214.2(p)(4)(iii)(B) states, in pertinent part, that:

> A petition for P-1 classification for the members

[1] Seven musicians and two support staff.

of an entertainment group shall be accompanied by:

. . . .

(3) Evidence that the group has been internationally recognized in the discipline for a sustained and substantial period of time. This may be demonstrated by the submission of evidence of the group's nomination or receipt of significant international awards or prizes for outstanding achievement in its field or by three of the following different types of documentation:

(i) Evidence that the group has performed, and will perform, as a starring or leading entertainment group in productions or events which have a distinguished reputation as evidenced by critical reviews, advertisements, publicity releases, publications, contracts, or endorsements;

(ii) Evidence that the group has achieved international recognition and acclaim for outstanding achievement in its field as evidenced by reviews in major newspapers, trade journals, magazines, or other published material;

(iii) Evidence that the group has performed, and will perform, services as a leading or starring group for organizations and establishments that have a distinguished reputation evidenced by articles in newspapers, trade journals, publications, or testimonials;

(iv) Evidence that the group has a record of major commercial or critically acclaimed successes as evidenced by such indicators as ratings; standing in the field; box office receipts; record, cassette, or video sales; and other achievements in the field as reported in trade journals, major newspapers, or other publications;

(v) Evidence that the group has achieved significant recognition for achievements from

organizations, critics, government agencies, or other recognized experts in the field. Such testimonials must be in a form that clearly indicates the author's authority, expertise, and knowledge of the alien's achievements; or

(vi) Evidence that the group has either commanded a high salary or will command a high salary or other substantial remuneration for services comparable to others similarly situated in the field as evidenced by contracts or other reliable evidence.

The record of proceeding contains the petition and supporting documentation, a request for additional evidence and the petitioner's reply, the director's decision, and appeal documents.

Evidence that the group has performed, and will perform, as a starring or leading entertainment group in productions or events which have a distinguished reputation as evidenced by critical reviews, advertisements, publicity releases, publications, contracts, or endorsements.

The petitioner submitted a biography of the beneficiary stating that the beneficiary band had been performing in various venues since 1970. The petitioner submitted numerous flyers (advertisements) indicating that the beneficiary had performed at public and private celebrations, concerts staged at fairgrounds, restaurants and private nightclubs. The petitioner submitted articles written about the beneficiary band but the majority fail to state the name and date of the publications so they cannot be considered. The evidence fails to establish that the beneficiary has and will perform in productions or events that have a distinguished reputation.

Evidence that the group has achieved international recognition and acclaim for outstanding achievement in its field as evidenced by reviews in major newspapers, trade journals, magazines, or other published material.

The petitioner submitted articles written about the beneficiary but the majority fail to state the name and date of the publications so they cannot be considered. The articles that may be considered fail to demonstrate that

the beneficiary group has achieved international recognition and acclaim for outstanding achievement in the music world as they merely mention the release of a recording by the beneficiary or briefly review the beneficiary's performance.

Evidence that the group has performed, and will perform, services as a leading or starring group for organizations and establishments that have a distinguished reputation evidenced by articles in newspapers, trade journals, publications, or testimonials.

The petitioner provided the Bureau with testimonials or letters written by producers and directors of several radio and television stations stating that they have either aired the beneficiary's music or hosted the beneficiary. The general manager of a radio station states that the beneficiary collaborated with the radio station in events staged in the main plaza of the town of Izucar de Matamoros, in the state of Puebla. An artistic director at *Radio Formula* wrote in a letter dated September 1991 that he recommends the beneficiary as a serious and responsible group. The petitioner submitted a second letter from the same artistic director that is identical to the first, however the translation is embellished to say that the beneficiary "occupies the top of our popularity charts." In a letter dated March 2002, a television producer states that the beneficiary performed in a three-hour show for the government owned television station. An executive producer for *TV Azteca* states that the beneficiary appeared on its program called "Ya Llégo Mayito." The testimonials fail to establish that the beneficiary has performed or will perform services as a leading or starring group for organizations and establishments that have a distinguished reputation.

The petitioner submitted many articles published in newspapers or other publications. Quite a few articles that were published more than ten years ago were not translated. At least eight submitted articles state the name and date of publication and were partially translated. These articles fail to comply with the regulation requiring a complete, certified translation and will not be considered. Two items are flyers reprinted in newspapers advertising an upcoming performance at the *Salon Tropicana 2*, a nightclub. Several articles announce the release of a new recording by the beneficiary. Several articles are

brief reviews of the beneficiary band. In review, the articles do not establish that the beneficiary has performed or will perform services as a leading or starring group for organizations and establishments that have a distinguished reputation.

Evidence that the group has a record of major commercial or critically acclaimed successes as evidenced by such indicators as ratings; standing in the field; box office receipts; record, cassette, or video sales; and other achievements in the field as reported in trade journals, major newspapers, or other publications.

The petitioner submitted a letter from an agent stating that [redacted] registered some of the highest record sales during 1974-1975. The petitioner also submitted evidence that [redacted] was awarded the Gold Record in 1974 for major record sales. These awards and the articles submitted demonstrate that the beneficiary had a record of commercial success but fails to establish that the beneficiary has sustained a high level of international recognition or achievement to the present, as required by the regulations.

Evidence that the group has achieved significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the field. Such testimonials must be in a form that clearly indicates the author's authority, expertise, and knowledge of the alien's achievements.

As evidence that the beneficiary satisfies criterion number five, the petitioner submitted evidence that the beneficiary received awards or certificates for participation in community events in the years 1982, 1985, 1990-92, 1995 and 1999. The petitioner failed to establish that these awards are evidence of significant recognition for its achievements.

Evidence that the group has either commanded a high salary or will command a high salary or other substantial remuneration for services comparable to others similarly situated in the field as evidenced by contracts or other reliable evidence.

No evidence was submitted in relation to criterion number six.

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.