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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals, MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

[redacted]

D9

FILE: [redacted] Office: CALIFORNIA SERVICE CENTER Date: SEP 2 8 2010

IN RE: Petitioner:
Beneficiaries: [redacted]

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

ON BEHALF OF PETITIONER: SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $585. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

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

The petitioner filed a Form I-129, Petition for a Nonimmigrant Worker, seeking classification of the beneficiaries under section 101(a)(15)(P)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(P)(i), as essential support personnel for an internationally recognized entertainment group. The petitioner, an artist management company, indicates that the beneficiaries will serve in the roles of sound technician, road manager and general/administrative manager for the musical group [redacted] on whose behalf the petitioner concurrently filed a P-1 classification petition ([redacted]).

The director denied the petition on June 25, 2009, based on the denial of the P-1 petition filed on behalf of the principal entertainment group on June 24, 2009. The director emphasized that the status of the essential support personnel is contingent upon the approval of the principal's P-1 status.

The petitioner subsequently filed an appeal. The director declined to treat the appeal as a motion and forwarded the appeal to the AAO for review. On appeal, the petitioner asserts that all three beneficiaries "are highly skilled individuals who's [*sic*] qualifications are an integral part of a successful tour and who have been and traveled with the group since its initiation." The petitioner also addresses the grounds for denial of its concurrently filed P-1 classification petition submitted on behalf of [redacted]

Under section 101(a)(15)(P)(i) of the Act, an alien having a foreign residence which he or she has no intention of abandoning may be authorized to come to the United States temporarily to perform services for an employer or sponsor. Section 214(c)(4)(B)(i) of the Act, 8 U.S.C. 1184(c)(4)(B)(i), provides that section 101(a)(15)(P)(i)(b) of the Act applies to an alien who:

> (I) performs with or is an integral and essential part of the performance of an entertainment group that has (except as provided in clause (ii) been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time,
>
> (II) in the case of a performer or entertainer, except as provided in clause (iii), has had a sustained and substantial relationship with that group (ordinarily for at least one year) and provides functions integral to the performance of the group, and
>
> (III) seeks to enter the United States temporarily and solely for the purpose of performing as such a performer or entertainer or as an integral and essential part of a performance.

The regulation at 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.

The regulation extends the P-1 classification for aliens who provide essential support to the principal P-1 entertainment groups. The regulation at 8 C.F.R. § 214.2(p)(3) states, in pertinent part:

> *Essential support alien* means a highly skilled, essential person determined by the Director to be an integral part of the performance of a P-1, P-2, or P-3 alien because he or she performs support services which cannot be readily performed by a United States worker and which are essential to the successful performance of services by the P-1, P-2, alien. Such alien must have appropriate qualifications to perform the services, critical knowledge of the specific services to be performed, and experience in providing such support to the P-1, P-2, or P-3 alien.

The regulation at 8 C.F.R. § 214.2(p)(4)(iv)(A) states:

> An essential support alien as defined in paragraph (p)(3) of this section may be granted P-1 classification based on a support relationship with an individual P-1 athlete, P-1 athletic team, or a P-1 entertainment group.

The sole issue to be addressed in this proceeding is whether USCIS may approve a P-1S petition when the principal alien entertainment group to which the beneficiaries will provided essential support services has been denied P-1 classification.

Upon review, the AAO concurs with the director's determination. As noted by the director, the regulations governing P-1S classification provide that the status of the essential support personnel is contingent upon approval of the principal's P-1 status. The petitioner concurrently filed the instant petition with the P-1 petition for the group '[redacted]

The director denied the P-1 classification petition on June 24, 2009. The petitioner subsequently appealed the director's decision, and the AAO dismissed the petitioner's appeal. The petitioner has not submitted any evidence in support of the instant appeal indicating that a new P-1 petition was been approved for the principal aliens for the requested validity period of July 1, 2009 to June 30, 2010.

Therefore, as the entertainment group for which the beneficiaries seek to provide essential support services has not been granted P-1 classification, the director appropriately denied the petition. The appeal is dismissed.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not sustained that burden.

ORDER: The appeal is dismissed.