



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 6640555

Date: JUNE 15, 2020

Appeal of California Service Center Decision

Form I-129, Petition for Nonimmigrant Worker (Extraordinary Ability – O)

The Petitioner, a theater group, seeks to classify the Beneficiary, a scenic and projection designer, as a foreign national of extraordinary ability in the arts. To do so, the Petitioner seeks O-1 nonimmigrant classification, available to foreign nationals who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation. *See* Immigration and Nationality Act (the Act) section 101(a)(15)(O)(i), 8 U.S.C. § 1101(a)(15)(O)(i).

The Director of the California Service Center denied the petition, concluding that the submitted evidence did not satisfy the applicable evidentiary requirements. The matter is now before us on appeal.

Upon our initial review, we determined that U.S. Citizenship and Immigration Services (USCIS) records indicate that, after the Petitioner filed the instant appeal in June 2019, a different petitioner filed a new Form I-129 on the Beneficiary's behalf, requesting O-1 classification. The new petition was approved and is valid from December 1, 2019, to November 30, 2022. We sent the Petitioner a notice of intent to dismiss and request for evidence (NOID/RFE), advising it of our intention to dismiss the instant appeal as it appears to have been rendered moot by the Beneficiary's approval for the same employment-based nonimmigrant classification, and we allowed it opportunity to respond as to whether or not it intends to pursue the appeal. We have not received a response to the NOID/RFE.

If a petitioner does not respond to a request for evidence or a notice of intent to deny by the required date, we may deny the petition as abandoned. 8 C.F.R. § 103.2(b)(13)(i). Our NOID specifically informed the Petitioner that "[w]e may dismiss your appeal if we do not receive your response to this NOID/RFE **within 87 days of the date on the cover letter**. This time period includes three days added for service by mail." (Emphasis in original). To date, more than 87 days have elapsed, and we have yet to receive a response from the Petitioner; therefore, we will dismiss the appeal as abandoned.

**ORDER:** The appeal is dismissed as abandoned pursuant to 8 C.F.R. § 103.2(b)(13).