MATTER OF LEE

In Section 248 Proceedings

A-14609823

Decided by Regional Commissioner May 2, 1966

Since an alien admitted as a person of distinguished merit and ability under section 101(a)(15)(H)(i), Immigration and Nationality Act, was not maintaining such status when he applied for a change of nonimmigrant classification to that of a visitor for pleasure, he is statutorily ineligible for a change of nonimmigrant classification under the provisions of section 248 of the Act.

Discussion: This is an appeal from the District Director's decision denying the application.

The applicant is a 22-year-old single male, a native and citizen of Korea. He entered the United States on April 30, 1965 at which time he was admitted to perform temporary services as a person of distinguished merit and ability until July 30, 1965. Thereafter he received an extension until January 1, 1966. On December 21, 1965 he applied to change his nonimmigrant status to that of a visitor for pleasure.

In a personal interview with an officer of this Service he stated that he had entered with a group of 36 Korean musicians to perform in New York City and that when the group disbanded in October 1965, he came to Los Angeles where he has been living with friends. He further stated that he and his brother, who is also here under similar circumstances, had about $1000 between them and that neither had return tickets to Korea.

Although an appeal was taken, no reason was given for taking such appeal and nothing was offered in support thereof.

Section 248 of the Act provides that a change of nonimmigrant status may be authorized only if the alien is continuing to maintain the status of a nonimmigrant. By ceasing his temporary employment as an entertainer the applicant terminated his lawful nonimmigrant status and the District Director had no alternative than

to deny the application. Moreover, the applicant's case falls squarely within 8 CFR 103.3(b) which provides for the dismissal of an appeal where the party concerned fails to specify the reasons for his appeal. Accordingly, the appeal will be dismissed.

ORDER: It is ordered that the appeal be and the same is hereby dismissed.