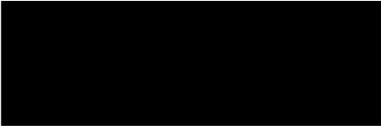




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U.S. Department of Justice
Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536



PUBLIC COPY

File:

Office: NEBRASKA SERVICE CENTER

Date: AUG 31 2001

IN RE: Petitioner:
Beneficiary:

Petition: Petition for Alien Fiance(e) Pursuant to Section 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(K)

IN BEHALF OF PETITIONER:
SELF-REPRESENTED

Identifying data deleted to prevent clearly unwarranted invasion of personal privacy.

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which 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 which 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 which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

for Robert P. Wiemann, Acting Director
Administrative Appeals Office

DISCUSSION: The Director of the Nebraska Service Center denied the nonimmigrant visa petition and the matter is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a lawful permanent resident (LPR) of the United States who seeks to classify the beneficiary, a native and citizen of Thailand, as the fiance(e) of a United States citizen pursuant to section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K).

The director denied the petition after determining that the petitioner was not a U.S. citizen as required by section 214(d) of the Act. On appeal, the petitioner submits a statement.

Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K), defines "fiance(e)" as:

An alien who is the fiancée or fiance of **a citizen of the United States** and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after entry....[emphasis added]

The record reflects that the petitioner acquired his lawful permanent resident status on June 18, 1997. The director denied the petition because the petitioner is not a U.S. citizen as the statute requires. On appeal, the petitioner states that he, the beneficiary, and their daughter have been separated for many years and he would like to be reunited with his family.

The petitioner presents a compelling appeal; however, only a U.S. citizen may file an I-129F petition on behalf of an alien. This is not a Service requirement; it is a requirement of the law. Accordingly, the director's decision to deny the petition was correct.

It is noted that the denial of this petition is without prejudice to the filing of a new I-129F petition once the petitioner acquires U.S. citizenship. Additionally, should the petitioner and the beneficiary marry, the denial of this petition does not preclude the petitioner from filing a Petition for Immediate Relative (Form I-130), in the beneficiary's behalf.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.