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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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FILE:


WAC 02 053 51468

Office: CALIFORNIA SERVICE CENTER

Date:

AUG 05 2005

IN RE:

Petitioner:
Beneficiary:



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

ON BEHALF OF PETITIONER: 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.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, California Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal is dismissed as moot.

The petitioner is a naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Mexico, as the fiancée 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 because he found the beneficiary's marriage to the petitioner prior to the filing of the petition prevented her from benefiting as a fiancée under section 101(a)(15)(K) of the Act. *Decision of the Director*, dated June 20, 2002.

The record reflects that the petitioner filed the Form I-129F, Petition for Alien Fiancé(e), with the service center on November 27, 2001. In response to the director's request for evidence, the petitioner submitted a marriage certificate documenting his marriage to the beneficiary on April 18, 2002. As the beneficiary had married the petitioner, the director determined she was no longer a fiancée eligible for benefits under section 101(a)(15)(K) of the Act.

The petitioner appealed the director's decision on August 7, 2002. However, subsequent to that appeal, on July 7, 2003, he submitted a second petition for his spouse under section 101(a)(15)(K) of the Act, successfully establishing her eligibility under the amendments made to that section by the Legal Immigration Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), as amended by LIFE Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000). The amended language of section 101(a)(15)(K)(ii) of the Act states, in part, that a Form I-129F petition may be approved for an alien who—

(ii) has concluded a valid marriage with a citizen of the United States who is the petitioner, is the beneficiary of a petition to accord a status under section 201(b)(2)(A)(i) that was filed under section 204 by the petitioner, and seeks to enter the United States to await the approval of such petition and the availability to the alien of an immigrant visa....

CIS approved the petitioner's second Form I-129F on September 4, 2003 and the record indicates that the beneficiary adjusted to lawful permanent resident status on October 7, 2004.

In light of CIS' approval of the petition filed on July 7, 2003, the AAO finds the petitioner's appeal of the instant petition to be moot.

ORDER: The appeal is dismissed as moot.