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U.S. Citizenship
and Immigration
Services

D6

FILE:



Office: CALIFORNIA SERVICE CENTER

Date:

WAC 02 286 52274

JAN 27 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

PUBLIC COPY

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office 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 approved and subsequently revoked by the Director, California Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The petitioner is a naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Vietnam, 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).

After initially approving the petition, the director received information from the United States Consulate reporting discrepancies discovered during an in-person interview with the beneficiary. The director revoked approval of the petition after determining that the petitioner had failed to establish a bona fide relationship with the beneficiary as required under section 214(d) of the Act. *Decision of the Director*, dated January 20, 2004.

Though the record contains a Form G-28 Notice of Entry of Appearance (G-28), the individual who filed the G-28 is neither an attorney nor an accredited representative recognized by the Board of Immigration Appeals. The decision will, therefore, be sent only to the petitioner.

Section 101(a)(15)(K) of the Act, 8 U.S.C. § 1101(a)(15)(K), provides nonimmigrant classification to an alien who:

- (i) is the fiancé(e) of a U.S. citizen and who seeks to enter the United States solely to conclude a valid marriage with that citizen within 90 days after admission;
- (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; or
- (iii) is the minor child of an alien described in clause (i) or (ii) and is accompanying, or following to join, the alien.

Section 214(d) of the Act, 8 U.S.C. § 1184(d), states, in pertinent part, that a fiancé(e) petition:

. . . shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within two years before the date of filing the petition, have a bona fide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within a period of ninety days after the alien's arrival. . . .

In response to the director's Motion to Reopen/Notice of Intent to Deny, the petitioner submitted a letter indicating that he is a veteran and a U.S. citizen employed at Fairview Development Center. *Letter from Herman L. Vison*, dated September 9, 2003. The petitioner provided verification of his employment; a copy of his naturalization certificate; six color photographs from an engagement ceremony held in honor of the

petitioner and the beneficiary; a certificate of education for the beneficiary with English translation and additional statements of the petitioner. The director found that the petitioner failed to provide adequate documentation of a bona fide relationship between himself and the beneficiary.

On appeal, the petitioner states that he needs to consult with his attorney who is in Vietnam. The petitioner indicates that he plans to visit Vietnam and will submit a brief and evidence upon his return. *Form I-290B*, dated February 1, 2004. The AAO notes that over 11 months have elapsed since the filing of the appeal and no additional documentation has been received into the record.

8 C.F.R. § 103.3(v) (2002) states in pertinent part:

(v) Summary Dismissal. An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

The petitioner has failed to identify any erroneous conclusion of law or statement of fact in his appeal. The motion will therefore be summarily dismissed.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. The petitioner may file a new Form I-129F petition on the beneficiary's behalf when sufficient evidence is available.

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

ORDER: The appeal is summarily dismissed.