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U.S. Citizenship
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DG

FILE: [REDACTED]
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Office: NEBRASKA SERVICE CENTER

Date: OCT 24 2005

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

PETITION: Petition for Alien Fiancé(e) Pursuant to § 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 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 denied by the Acting Director, Nebraska Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

The petitioner is a native of Iraq and a lawful permanent resident of the United States who seeks to classify the beneficiary, a native and citizen of Iraq, as the fiancée of a United States citizen pursuant to § 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K). The acting director denied the petition after determining that the petitioner had not offered documentation showing that he is a U.S. citizen. The acting director also noted that the petitioner failed to provide a letter of parental consent from his fiancée's parents.

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

On appeal, the petitioner submits a letter written by the beneficiary's parents consenting to her marriage to the petitioner. The petitioner has failed to provide, however, evidence establishing that he is a U.S. citizen. According to § 101(a)(15)(K) of the Act, only a U.S. citizen may petition for an alien fiancé(e), and the petitioner must be a U.S. citizen at the time of filing the petition. In the instant case, the petitioner states that he was interviewed regarding his application for U.S. citizenship on April 28, 2004. The record does not contain evidence that the petitioner had become a naturalized U.S. citizen as of the July 22, 2004 date of filing the petition.

As the petitioner has not shown that he was a U.S. citizen at the time he filed the fiancé(e) petition, the appeal is 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 he is able to provide evidence that he has finalized his naturalization process.

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

ORDER: The appeal is dismissed.