



U.S. Citizenship  
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FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date: OCT 28 2005

EAC 04 151 54020

IN RE:

Petitioner:

Beneficiary:

[REDACTED]

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 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, Vermont Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be sustained.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Canada, as the fiancé 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 acting director denied the petition after determining that the petitioner had not submitted credible documentary evidence to establish the fiancé relationship within the meaning of section 101(a)(15)(K) of the Act. *Decision of the Acting Director*, dated December 1, 2004.

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 acting director's request for evidence and additional information, the petitioner submitted, *inter alia*, a letter from The Court of Queen's Bench of New Brunswick indicating that a judgment of divorce for the beneficiary's prior marriage would be issued in due course of thirty-one days from the date of the Consent Order. *See Letter signed by Nancy A. Williamson*, dated June 16, 2003.

On appeal, the petitioner provides a Certificate of Divorce terminating the beneficiary's prior marriage to [REDACTED]. The certificate indicates that the divorce became effective on July 14, 2003. The AAO finds, therefore, that the beneficiary was legally able to conclude a valid marriage in the United States on April 24, 2004, the date of the filing of the Form I-129F petition.

The record on appeal includes credible documentary evidence to establish the fiancé relationship within the meaning of section 101(a)(15)(K) of the Act. Therefore, the appeal will be sustained.

**ORDER:** The appeal is sustained and the application is approved.