

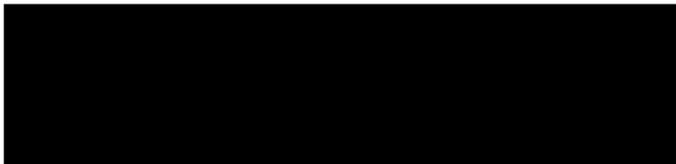
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U.S. Department of Homeland Security
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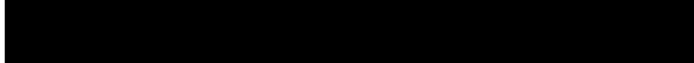
U.S. Citizenship
and Immigration
Services

PUBLIC COPY



D.L.

FILE:  Office: CALIFORNIA SERVICE CENTER Date: **JAN 11 2007**
WAC 06 101 50651

IN RE: Petitioner: 
Beneficiary: 

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, Chief
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 will be dismissed.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Mexico, as the fiancé 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 director denied the petition after determining that the petitioner had not submitted evidence to establish that she was a U.S. citizen at the time she filed the petition on February 10, 2006. On appeal, the petitioner¹ submits a copy of her naturalization certificate, establishing that she became a U.S. citizen on July 26, 2006.

Section 101(a)(15)(K) of the Act, 8 U.S.C. § 1101(a)(15)(K), provides nonimmigrant classification to an alien who 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. The beneficiary was not eligible for this classification at the time the petition was filed, because at that time, the petitioner was not a U.S. citizen. Thus, the petitioner's submission of proof of her naturalization subsequent to the petition's filing date does not overcome the director's reason for denial, and the appeal must be dismissed.

Pursuant to 8 C.F.R. § 214.2(k)(2), the denial of the petition is without prejudice. Now that the petitioner is a U.S. citizen, she may file a new Form I-129F petition on the beneficiary's behalf, submitting all the requested evidence.

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.

¹ The AAO notes that I [REDACTED], who apparently completed the paperwork related to this petition and appeal on the petitioner's behalf, is neither an accredited representative nor an attorney. For this reason, Citizenship and Immigration Services will not send a copy of this or any other correspondence to N [REDACTED]