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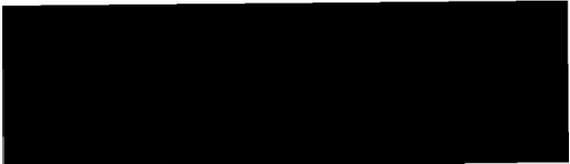
U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

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FILE: [Redacted]
WAC 07 008 51369

Office: CALIFORNIA SERVICE CENTER

Date: JAN 15 2008

IN RE: Petitioner: [Redacted]
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 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 sustained and the petition approved.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of the Philippines, 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 after determining that the petitioner had failed to submit a Form G-325A biographic information sheet and a photograph of the beneficiary. *Decision of the Director*, dated July 13, 2007.

On appeal, the petitioner submits a Form G-325A for the beneficiary, but does not submit a photograph of the beneficiary. However, based on guidance issued November 1, 2005 by the Citizenship and Immigration Service Director for Operations, a petitioner's failure to submit a photograph of the beneficiary is no longer a basis for denying a Form I-129F petition when the beneficiary is residing abroad. In such cases, the beneficiary may submit the photograph overseas at the time of visa issuance. See Memorandum from Michael Aytes, Acting Associate Director for Operations, United States Citizenship and Immigration Services, Department of Homeland Security, *Guidance for Processing Pending Form I-129F Petition for Alien Fiancé(e) when G-325A for Petitioner and/or Beneficiary is not Signed and/or Photos not Submitted* (November 1, 2005). Accordingly, the director's decision is withdrawn.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has met that burden. The appeal will be sustained and the petition will be approved.

ORDER: The appeal is sustained. The petition is approved.