identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

PUBLIC COPY

U.S. Department of Homeland Security
20 Massachusetts Avenue NW, Rm. A3042
Washington, DC 20529

U.S. Citizenship
and Immigration
Services

[redacted]

FILE: [redacted] Office: VERMONT SERVICE CENTER Date: SEP 29 2004
EAC 03 165 51352

IN RE: Petitioner: [redacted]
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

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 Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on motion to reopen. The motion to reopen will be rejected and the matter remanded to the director for further action consistent with this decision.

The petitioner is a naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of the Dominican Republic, 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 abandoned the petition pursuant to 8 C.F.R. § 103.2(b)(13). *Decision of the Director*, dated December 19, 2003.

The motion to reopen was filed by the petitioner in response to the decision of the director. *Motion to Reopen*, dated January 14, 2004. A motion to reopen a petition denied due to abandonment may be filed for consideration by the director with evidence that the decision was in error. The record fails to contain a decision by the director on the motion to reopen filed by the petitioner and is, therefore, inappropriately before the AAO. The motion will be rejected and the application will be remanded to the director for further action consistent with the present decision. If the new decision is adverse to the applicant, the decision shall be certified to the AAO for review.

ORDER: The motion is rejected and the application is remanded to the director for further action consistent with the present decision.