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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

[redacted]

D6

DATE: JUL 17 2012 OFFICE: VERMONT SERVICE CENTER FILE: [redacted]

IN RE: Petitioner: [redacted]
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:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The service center director (the director) denied the nonimmigrant visa petition and the Administrative Appeals Office (AAO) dismissed a subsequent appeal. The matter is again before the AAO on a motion to reopen. The motion will be granted. The previous decisions of the director and the AAO will be withdrawn. The petition will be approved.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a citizen of Italy, as the fiancé(e) 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, pursuant to 8 C.F.R. § 103.2(b)(8)(ii), because the petitioner did not submit required initial evidence. On motion to reopen, the petitioner submits additional evidence. The petitioner's submission qualifies as a motion to reopen under the requirements set forth at 8 C.F.R. § 103.5(a)(2).

Applicable Law

A "fiancé(e)" is defined at section 101(a)(15)(K) of the Act as someone who:

> subject to subsections (d) and (p) of section 214, [is] an alien who—
>
> (i) is the fiancée or fiancé of a citizen of the United States . . . and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after admission[.]

Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1), 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 2 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, except that the Secretary of Homeland Security in [her] discretion may waive the requirement that the parties have previously met in person. . . .

The regulation at 8 C.F.R. § 103.2(b)(8)(ii) states that if all required initial evidence is not submitted with the petition or the petitioner does not demonstrate eligibility, U.S. Citizenship and Immigration Services (USCIS) may, in its discretion, deny the petition for lack of initial evidence.

Pertinent Facts and Procedural History

The petitioner filed the instant petition on March 15, 2011 with no supporting evidence and it was consequently denied on July 5, 2011. We dismissed the petitioner's subsequent appeal on March 12, 2012.

The AAO reviews these matters on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Upon reopening and review of this matter, we find that the new evidence submitted by

the petitioner on motion to reopen overcomes the grounds of our March 12, 2012 decision dismissing the appeal.

Analysis

On appeal, the petitioner submitted some, but not all, required initial evidence. In our decision dismissing the appeal we notified the petitioner that the record lacked the following: (1) evidence that he and the beneficiary personally met each other during the two-year period preceding the filing of the petition; (2) original statements from the petitioner and beneficiary regarding their intent to marry each other within 90 days of the beneficiary's entry into the United States; (3) two Forms G-325A, Biographic Information: one executed by the petitioner, and one executed by the beneficiary; and (4) passport-style color photographs of the petitioner and beneficiary. We further notified the petitioner that absent all required initial evidence, we could not adjudicate the petition on its merits. On motion to reopen the petitioner submits the missing evidence identified in our prior decision. Accordingly, the record is now complete and ready for adjudication.

Upon review, we find that the evidence of record satisfies all statutory and regulatory requirements and that the petition therefore merits approval. As such, both the July 5, 2011 decision of the director and the March 12, 2012 decision of the AAO shall be withdrawn, and the petition will be approved.

Conclusion

The petitioner has now submitted all required initial evidence and our review of that evidence finds that this petition warrants approval. Accordingly, the beneficiary is eligible for nonimmigrant classification under section 101(a)(15)(K)(i) of the Act and this petition will be approved.

In these proceedings, the petitioner bears the burden of proof to establish the beneficiary's eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). He has met his burden and the petition will be approved.

ORDER: The motion is granted. The AAO's March 12, 2012 decision is withdrawn, and the petition is approved.