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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

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Date: **MAY 16 2012**

Office: VERMONT SERVICE CENTER

FILE: 

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)

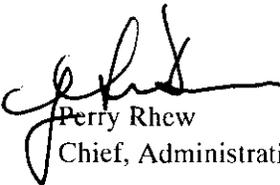
ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

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 Director, Vermont Service Center, denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained and the petition will be approved.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and a citizen of Norway, 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 nonimmigrant visa petition pursuant to 8 C.F.R. § 103.2(b)(8)(ii) because the petitioner failed to submit required initial evidence. On appeal, the petitioner provides a statement and additional evidence.

Applicable Law

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

subject to subsections (d) and (p) of section 214, 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 does not demonstrate eligibility, U.S. Citizenship and Immigration Services (USCIS) may, in its discretion, deny the petition for lack of initial evidence. The specific requirements for filing a Petition for Alien Fiancé(e) (Form I-129F), including a description of the required initial evidence, may be found in the *Instructions* to the Form I-129F.

Factual and Procedural History

The petitioner filed the fiancé(e) petition with USCIS on September 22, 2010 without any supporting evidence. For this reason, the director denied the petition on April 12, 2011. On appeal, the petitioner provided a statement in which she asserted that she was not aware of the required initial evidence when she filed the Form I-129F. The petitioner also provided the following: two (2) passport-style color photographs of the petitioner and the beneficiary; a Form G-325A, Biographic Information, for the petitioner and the beneficiary; the petitioner's U.S. birth certificate; original statements from the petitioner and the beneficiary establishing their mutual intent to marry within 90 days of the

beneficiary's admission into the United States in K-1 status; a certificate of no impediment to marriage issued on behalf of the beneficiary; printed electronic mail correspondence between the petitioner and beneficiary and the petitioner and her family members; and copies of photographs of the petitioner, beneficiary and the petitioner's family members.

On February 10, 2012, the AAO issued a request for evidence (RFE) to the petitioner for evidence of the termination of the petitioner's prior marriage; evidence of the termination of the beneficiary's prior marriage; and evidence that the petitioner and the beneficiary had met in person between September 22, 2008 and September 22, 2010, which is the two-year period immediately preceding the filing of the petition, or evidence that the petitioner merits a favorable exercise of discretion to exempt her from such requirement pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2).

Analysis

The petitioner has submitted all of the required initial evidence, including: a copy of a divorce decree terminating the petitioner's prior marriage, issued by the Superior Court of Cherokee County, Georgia on [REDACTED] 2009; a letter from the Governor of the [REDACTED] County in Norway certifying that the beneficiary was granted a final divorce on [REDACTED] 2001; and copies of travel stamps from the petitioner's and beneficiary's passports reflecting that they have met on several occasions during the requisite period. Now that the petitioner has submitted documentation to meet all of the Form I-129F evidentiary requirements, the AAO will sustain the petitioner's appeal.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has met that burden.

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