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**U.S. Citizenship
and Immigration
Services**

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DG



FILE: [REDACTED]
EAC 05 135 52477

Office: VERMONT SERVICE CENTER

Date: **NOV 22 200**

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 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

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont 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 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 all documentation required for the filing of a Petition for Alien Fiancé(e) (Form I-129F). *Decision of the Director*, dated June 2, 2005.

Section 101(a)(15)(K) of the Act, 8 U.S.C. § 1101(a)(15)(K), provides nonimmigrant classification to an alien who:

- (i) 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;
- (ii) has concluded a valid marriage with a citizen of the United States who is the petitioner, is the beneficiary of a petition to accord a status under section 201(b)(2)(A)(i) that was filed under section 204 by the petitioner, and seeks to enter the United States to await the approval of such petition and the availability to the alien of an immigrant visa; or
- (iii) is the minor child of an alien described in clause (i) or (ii) and is accompanying, or following to join, the alien.

Section 214(d) of the Act, 8 U.S.C. § 1184(d), 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 two 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. . . .

At the time he submitted the Form I-129F, the petitioner did not provide a signed Biographic Information sheet, Form G-325A, for the beneficiary, or two photographs of himself and two photographs of beneficiary, documentation required for the filing of the Form I-129F. He also failed to provide this documentation in response to the director's request for evidence. With his June 8, 2005 appeal, the petitioner submits a G-325A for the beneficiary and indicates that the requested photographs were "sent out around the 31st of June." However, the AAO notes that, as the appeal was filed on June 8, 2005, the date on which the petitioner sent the photographs cannot have been June 31, 2005. Further, it finds the record to contain no passport-style photographs of either the petitioner or the beneficiary.

General requirements for filing immigration applications and petitions are set forth at 8 C.F.R. §103.2(a)(1) as follows:

. . . Every application, petition, appeal, motion, request, or other document submitted on the form prescribed by this chapter shall be executed and filed in accordance with the instructions

on the form, such instructions being hereby incorporated into the particular section of the regulations requiring its submission

Further discussion of the requirement that applications and petitions be completed and documented as specified in the instructions accompanying these forms is found at 8 C.F.R. § 103.2(b)(1):

An applicant or petitioner must establish eligibility for a requested immigration benefit. An application or petition form must be completed as applicable and filled with any initial evidence required by regulation or by the instructions on the form.

Accordingly, as the record does not establish that the petitioner has complied with all of the documentary requirements for filing the Form I-129F, the appeal will be dismissed.

The denial of the petition is without prejudice. The petitioner may file a new Form I-129F petition on the beneficiary's behalf.

The burden of proof in these proceedings rests solely with the petitioner. *See* Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has not met that burden.

ORDER: The appeal is dismissed.