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U.S. Department of Homeland Security
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U.S. Citizenship
and Immigration
Services

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DG



FILE:



Office: VERMONT SERVICE CENTER

Date:

MAR 16 2009

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:

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.


John F. Grissom, Acting Chief
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 The director's decision will be withdrawn and the matter remanded for further action.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Haiti, 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 because the petitioner failed to submit any initial evidence or supporting documentation. On appeal, the petitioner submits: proof of her U.S. citizenship; a final judgment of divorce for her prior marriage; passport-style color photographs for the beneficiary; and G-325A, Biographic Information forms for the petitioner and the beneficiary.¹ The petition may not be approved, however, because the record does not contain: a passport-style color photograph for the petitioner; 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; and evidence that the petitioner and the beneficiary have personally met within the last two years or a detailed explanation and evidence of the extreme hardship or customary, cultural or social practices that have prohibited their meeting.

The instructions to the I-129F petition at pages 2 and 3, items #5 and #6, further describe the documentation that must be submitted by the petitioner. When filing the petition, the petitioner did not submit any supporting documentation, and thus the director denied the petition.

On appeal, the petitioner submits the documentation listed above, but does not submit all of the required supporting documentation, as described in the instructions to the I-129F petition. Accordingly, the AAO shall remand the matter to the director so that he can provide the petitioner with an opportunity to submit all of the required documentation. The director may request any additional information or evidence that he deems necessary. As always, the burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361.

ORDER: The director's decision is withdrawn and the matter remanded for issuance of a Request for Evidence (RFE) and entry of a new decision. If the new decision is adverse to the petitioner, the director shall certify it to the AAO for review.

¹ The AAO notes that the G-325A forms that the petitioner submitted need to be submitted again because the beneficiary's G-325A form contains information that relates to the petitioner, not the beneficiary.