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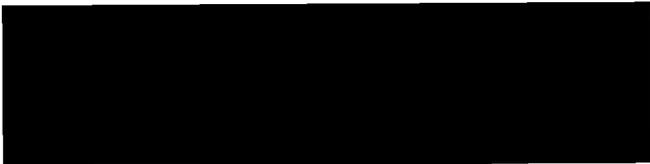
U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



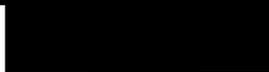
U.S. Citizenship  
and Immigration  
Services

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FILE:



Office: VERMONT SERVICE CENTER

Date:

**MAR 24 2010**

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.

Perry Rhew

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 The director's decision will be withdrawn and the matter remanded for further action.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 naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Cape Verde, 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 a passport-style photograph for himself. On appeal, the petitioner submits a passport-style photograph for himself; however, the petition may not be approved because the record does not contain an original statement from the beneficiary that establishes her intent to marry within 90 days of her entry into the United States in K-1 status.

The instructions to the I-129F Petition state, at page 3, item #6, that passport-style photographs must be submitted for both the petitioner and the fiancé(e). When filing the petition, the petitioner did not submit the required photograph for himself. The director, therefore, on March 3, 2009, requested the photograph, along with evidence that the petitioner and the beneficiary personally met within the two-year period immediately preceding the filing of the petition. The petitioner submitted evidence that he and the beneficiary personally met within the two-year period immediately preceding the filing of the petition, but failed to submit his own passport-style photograph. When denying the petition, the director noted only that the petitioner did not submit the required photograph for himself; the director failed to mention the absence of an original statement from the beneficiary that establishes her intent to marry within 90 days of her entry into the United States in K-1 status.

On appeal, the petitioner submits his own passport-style photograph, the submission of which overcomes the director's basis for denying the petition. Nevertheless, the record still does not contain an original statement from the beneficiary that establishes her intent to marry within 90 days of her entry into the United States in K-1 status. Accordingly, the AAO shall remand the matter to the director so that he can provide the petitioner with an opportunity to submit an original statement from the beneficiary that establishes her intent to marry within 90 days of her entry into the United States in K-1 status. 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.