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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



86

Date: DEC 16 2011 Office: CALIFORNIA 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:

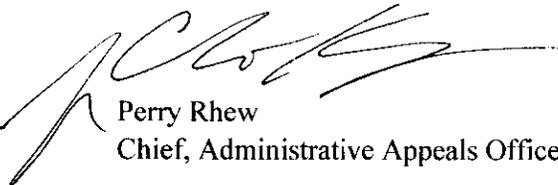
SELF-REPRESENTED

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.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

  
Perry Rhew  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed. The petition will remain denied.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of the Philippines, 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 submits 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 January 19, 2011 without any supporting evidence. For this reason, the director denied the petition on June 3, 2011. On appeal, the petitioner provides a statement in which he asserts that he visited the petitioner in the Philippines in November 2010 and April 2011. He also provides: a Form G-325, Biographic Information, for himself and the beneficiary; one (1) passport-style color photograph of himself and the beneficiary; original statements from himself and the beneficiary to establish their mutual intent to marry within 90 days of the beneficiary's admission into the United States in K-1 status; photographs of himself with the

beneficiary; his hotel reservation and flight itinerary for his November 2010 visit to the Philippines; hotel receipts and a flight itinerary for his April 2011 visit to the Philippines; a telephone log of phone calls to the Philippines; a transaction history of his remittances to the beneficiary; copies of e-mail correspondence between himself and the beneficiary; and a divorce decree reflecting the termination of his marriage to his second spouse, R-U.<sup>1</sup>

*Analysis*

The petitioner has submitted some, but not all, of the required initial evidence. The record still lacks the following documentation: proof of the petitioner's U.S. citizenship; one (1) additional passport-style color photograph of the petitioner and the beneficiary; and proof of the termination of the petitioner's marriage to J-U-, his first wife. We acknowledge that the petitioner submitted a letter from an attorney who stated that he has reviewed records from the Sacramento Superior Court and can attest to the dissolution of the petitioner's first marriage. However, the petitioner did not submit a copy of the divorce decree. The statement from counsel alone is not sufficient evidence of the petitioner's ability to conclude a valid marriage in the United States. Without documentary evidence to support the claim, the assertions of counsel will not satisfy the petitioner's burden of proof. The unsupported assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).

*Conclusion*

As the petitioner still has not submitted all of the required initial evidence on appeal, the director's decision to deny the petition shall not be disturbed. As always, 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 not met that burden.

**ORDER:** The appeal is dismissed. The petition remains denied.

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<sup>1</sup> Name withheld to protect the individual's identity.