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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

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U.S. Citizenship
and Immigration
Services

86



FILE: [REDACTED]

Office: VERMONT SERVICE CENTER

Date: **JAN 19 2011**

IN RE: Petitioner:
Beneficiary:



PETITION: Petition for Alien Fiancé(c) 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, Vermont Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

Information on the petition indicates that the petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Colombia, 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 because the petitioner failed to submit any initial evidence or supporting documentation. On appeal, the petitioner states, in part, that he and the beneficiary met in the summer of 1996, and that, in the summer of 1998, they were separated "for reasons out of [their] control,"¹ whereupon he traveled to Colombia in October of 1998, to live with the beneficiary there, but returned to the United States within two months due to economic reasons. The petitioner states that he and the beneficiary subsequently lost contact with each other until February 2008, when he called her and began a relationship with her via the phone and computer. The petitioner states further that he and the beneficiary plan to marry in Florida. The petitioner submits the following items: evidence of the termination of his marriage to [REDACTED] a death certificate for [REDACTED] listing the surviving spouse as [REDACTED]; evidence of the termination of the beneficiary's marriage to [REDACTED]; phone cards; and photographs.

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:

[s]hall 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

The petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) with U.S. Citizenship and Immigration Services (USCIS) on April 12, 2010. Therefore, the petitioner and the beneficiary were required to have met in person between April 12, 2008 and April 12, 2010.

¹ A review of the record finds that the beneficiary was convicted of a crime designated as an aggravated felony, and was removed from the United States on July 16, 1998.

When he filed the petition, the petitioner responded "Yes" to question #18 on the I-129F Petition that asks whether he and the beneficiary had met in person within the two-year period immediately preceding the filing of the petition.

On appeal, the petitioner submits the documentation listed above. The petition may not be approved, however, because the record still does not contain the following required documentation: proof of the petitioner's U.S. citizenship; evidence of the termination of the petitioner's marriage to [REDACTED] (the death certificate listed above is insufficient because the petitioner is not named as the surviving spouse); completed G-325A, Biographic Information forms for the petitioner and the beneficiary; passport-style color photographs for the petitioner and the beneficiary; evidence that the petitioner and the beneficiary personally met within the two-year period immediately preceding the filing of the petition or a detailed explanation and evidence of the extreme hardship or customary, cultural or social practices that have prohibited their meeting; and original statements from the petitioner and the beneficiary or other evidence that establishes their mutual intent to marry within 90 days of the beneficiary's entry into the United States in K-1 status.

The instructions to the I-129F petition at pages 2 and 3, items #5 and #6, state that the above described documentation must be submitted for both the petitioner and the beneficiary. 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 items listed above, but does not submit all of the required supporting documentation as described in the instructions to the I-129F petition. As a result, the beneficiary cannot benefit from the instant petition. Therefore, the appeal will be dismissed and the petition will be denied.

The denial of the petition is without prejudice. Should the petitioner wish to file a new I-129F Petition, he should ensure that he submits all of the required supporting documentation. If necessary, the petitioner should consult the instructions to the Form I-129F to understand the specific documents that he should file along with the petition. The petitioner may download the I-129F petition with the instructions from the USCIS website at www.uscis.gov, or he may call the USCIS National Customer Service Center (NCSC) at 1-800-375-5283 to have the form and the instructions mailed to his home.

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

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