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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**

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FILE: [Redacted] Office: VERMONT SERVICE CENTER Date: MAR 01 2011

IN RE: Petitioner: [Redacted]
Beneficiary: [Redacted]

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:

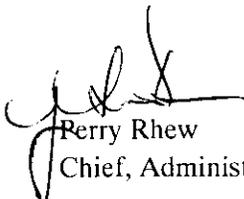
SELF-REPRESENTED

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, 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.

The petitioner is a naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Libya, 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 the following: evidence that he and the beneficiary personally met within the two-year period immediately preceding the filing of the petition; a Form G-325A, Biographic Information, for the beneficiary; and passport photos for himself and the beneficiary. On appeal, the petitioner submits a statement and the following items: a travel itinerary dated April 21, 2010; a Form G-325A, Biographic Information, for the beneficiary; and passport photos for himself and the beneficiary.

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 October 27, 2009. Therefore, the petitioner and the beneficiary were required to have met in person between October 27, 2007 and October 27, 2009.

When he filed the petition, the petitioner left blank 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. The petitioner stated, in part, that he met the beneficiary during a visit to Tunis.

On February 12, 2010, the director issued a Request for Evidence (RFE), requesting that the petitioner submit: evidence that he and the beneficiary had met in person within the two-year period immediately preceding the filing of the petition; a Form G-325A, Biographic Information, for the beneficiary; and passport photos for himself and the beneficiary.

In his response to the director's RFE, the petitioner submitted additional documentation, but did not submit any of the requested items.

The director denied the nonimmigrant visa petition because the petitioner failed to submit the following: evidence that he and the beneficiary personally met within the two-year period immediately preceding the filing of the petition; a Form G-325A, Biographic Information, for the beneficiary; and passport photos for himself and the beneficiary.

On appeal, the petitioner submits the documentation listed above, including a travel itinerary of his plans to visit the beneficiary in April 2010. The petition may not be approved, however, because the petitioner must establish eligibility at the time of filing the nonimmigrant visa petition. USCIS regulations affirmatively require a petitioner to establish eligibility for the benefit it is seeking at the time the petition is filed. 8 C.F.R. 103.2(b)(1). A visa petition may not be approved at a future date after the petitioner or beneficiary becomes eligible under a new set of facts. *Matter of Michelin Tire Corp.*, 17 I&N Dec. 248 (Reg. Comm. 1978). In this case, the petition was filed on October 27, 2009, and thus the petitioner and the beneficiary were required to have met between October 27, 2007 and October 27, 2009. Since this has not occurred, it is concluded that the petition may not be approved. Accordingly, the appeal is dismissed.

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 all of the required 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.

Beyond the decision of the director, the record does not contain 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. It is also noted that the beneficiary's passport, health card certificate, and police clearance certificate all list her occupation as "housewife," which conflicts with information on the petition listing her marital status as "single." The record contains no explanation for this inconsistency. For these additional reasons, the petition may not be approved.

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.