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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



D6

Date: APR 05 2012

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)

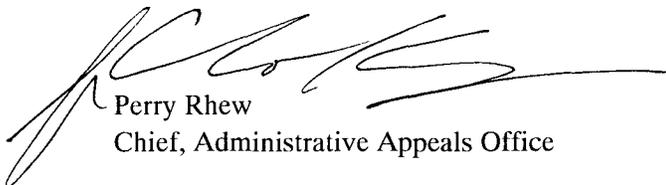
ON BEHALF OF PETITIONER:

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.

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 sustained and the petition will be approved.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native of Rwanda and a citizen of Norway, 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 April 28, 2011 without any supporting evidence. For this reason, the director denied the petition on August 3, 2011. On appeal, the petitioner provided a statement in which he asserted that he and the beneficiary are single and plan to wed after the beneficiary's arrival in the United States. He also provided the following: evidence of his naturalization certificate and U.S. passport; proof of the termination of his prior marriage; proof of the termination of the beneficiary's prior marriage; photographs of himself with the beneficiary; two (2) passport-style color photographs of the beneficiary; and a Form G-325A, Biographic Information, for

himself and the beneficiary. On February 10, 2012, the AAO issued a Request for Evidence (RFE) to the petitioner for two (2) passport-style color photographs of the petitioner; original statements from the petitioner 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; and evidence that the petitioner and the beneficiary have met in person between April 28, 2009 and April 28, 2011, which is the two-year period immediately preceding the filing of the petition, or evidence that the petitioner merits a favorable exercise of discretion to exempt him from such requirement pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2). The petitioner timely responded to the RFE with the requested evidence.

*Analysis*

The petitioner has submitted all of the required initial evidence, including: two (2) passport-style color photographs of the petitioner; original statements from the petitioner 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; and copies of travel stamps from the petitioner's and beneficiary's passports and their respective flight itineraries reflecting that they have met on two occasions during the requisite period. Now that the petitioner has submitted documentation to meet all of the Form I-129F evidentiary requirements, the AAO will sustain the petitioner's appeal and approve the petition.

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 met that burden.

**ORDER:** The appeal is sustained. The petition is approved.