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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



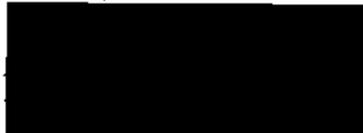
**U.S. Citizenship
and Immigration
Services**



D6

Date: **AUG 14 2012**

Office: CALIFORNIA SERVICE CENTER

FILE: 

IN RE:

Petitioner: 

Beneficiary:

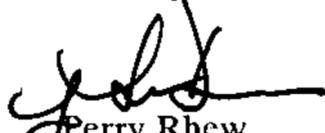
PETITION: Petition for Alien Fiancé(e) Pursuant to § 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(K)

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 (the director), denied the nonimmigrant visa petition (Form I-129F), and the Administrative Appeals Office (AAO) subsequently dismissed the appeal. The matter is again before the AAO on a motion to reopen and reconsider. The motion to reopen will be granted. The petition will be approved.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Nigeria, 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 submitted the Form I-290B, Notice of Appeal or Motion (Form I-290B) and additional evidence.

The AAO dismissed the appeal pursuant to 8 C.F.R. § 103.2(b)(8)(ii) because the petitioner failed to submit all required initial evidence. On motion, the petitioner submits the Form I-290B 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*.

Analysis

The petitioner filed the fiancé(e) petition with USCIS on December 6, 2010 without any supporting evidence. For this reason, the director denied the petition on May 9, 2011. On appeal, the petitioner provided an attachment in which he asserted that he was submitting additional documents. He also provided a copy of his Naturalization Certificate, copies of pages of the his passport, e-ticket confirmations and ticket stubs, Biographical Information Sheets (Form G-325A) for the himself and the beneficiary, photographs and a copy of the divorce decree from his first spouse, D-A-¹

On appeal the petitioner submitted some, but not all, of the required initial evidence. On motion, the petitioner submits all of the required initial evidence lacking from the record. He submits a properly executed Form G-325A for the beneficiary; two (2) passport-style color photographs of the petitioner and the beneficiary; and 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.

Conclusion

In view of the foregoing, the AAO finds that the petitioner has overcome the basis for the director's denial of the instant petition. Accordingly, the AAO will grant the petitioner's motion to reopen and withdraw the director's denial of the petition and the AAO's dismissal of the appeal.

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 sustained that burden.

ORDER: The motion is granted. The dismissal of the appeal is withdrawn. The denial is withdrawn. The petition is approved.

¹ Name withheld to protect identity.