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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

PUBLIC COPY



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Date: Office: CALIFORNIA SERVICE CENTER

JAN 05 2012

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:

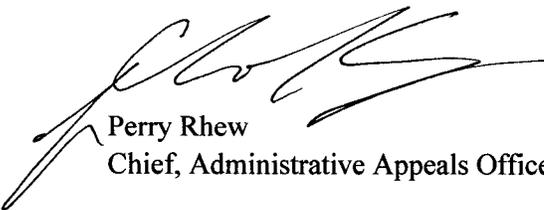
SELF-REPRESENTED

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 nonimmigrant visa petition was denied by the Director, California Service Center, and is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed. The petition will be denied.

The petitioner is a citizen of Cameroon and a lawful permanent resident of the United States who seeks to classify the beneficiary, a native and citizen of Cameroon, 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.

Applicable Law

A "fiancé(e)" is defined at Section 101(a)(15)(K) of the Act as, in pertinent part:

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 Form I-129F with U.S. Citizenship and Immigration Services (USCIS) on May 2, 2011 without any supporting evidence. For this reason, the director denied the petition on July 28, 2011. On appeal, the petitioner submitted additional evidence, including a copy of his permanent resident card, which reflects that he has been a lawful permanent resident of the United States since September 14, 2010.

Analysis

On the Form I-129F, the petitioner did not indicate that he was a U.S. citizen, either by birth or naturalization. Subsection 101(a)(15)(K)(i) of the Act provides nonimmigrant classification only to aliens who are the fiancé(e)s of U.S. citizens. There is no corresponding provision for nonimmigrant classification on behalf of aliens who are the fiancé(e)s of U.S. lawful permanent residents. A review of USCIS records establishes that the petitioner is a lawful permanent resident of the United States, not a citizen of the United States. Therefore, the petitioner is not eligible to file the Form I-129F and the appeal will be dismissed.

Conclusion

As the petitioner is not currently eligible to file a Petition for Alien Fiancé(e), 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. The denial of the petition is without prejudice. The petitioner may file a new Form I-129F on the beneficiary's behalf should he become a U.S. citizen.

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