



U.S. Citizenship  
and Immigration  
Services

86

[Redacted]

Date: **OCT 26 2012**

Office: CALIFORNIA SERVICE CENTER

FILE: [Redacted]

IN RE:

Petitioner:

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.

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 matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained. The petition will be approved.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a citizen of the Philippines, 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.

#### *Analysis*

The petitioner filed the fiancé(e) petition with USCIS on December 12, 2011 without any supporting evidence. For this reason, the director denied the petition on May 14, 2012. On appeal, the petitioner provided a statement in which he asserted that he has known the beneficiary since April 2010 and requests that the beneficiary be granted a K-1 visa. He also provided the following: a copy of his U.S. Birth Certificate; two (2) passport-style color photographs of the petitioner and the beneficiary; a receipt for a hotel in Manila, the Philippines dated September 21, 2010; a copy of his flight itinerary with a

baggage check receipt for his August 2010 visit to the Philippines; a copy of his boarding pass for his June 2010 return flight from the Philippines; a copy of an electronic credit voucher for his April 2010 visit to the Philippines; evidence of telephonic correspondence between himself and the beneficiary; photographs of himself and the beneficiary; Forms G-325A, Biographic Information, for the petitioner and the beneficiary; and evidence of money transfers from the petitioner to the beneficiary.

On August 15, 2012, the AAO issued a Request for Evidence (RFE) because the petitioner submitted some, but not all, of the required initial evidence. The petitioner timely responded to the RFE with additional evidence. In response to the RFE, the petitioner submits all of the required initial evidence lacking from the record. He submits original statements from himself 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; a new Form G-325A, Biographic Information, for the beneficiary; and a copy of an e-ticket and a hotel receipt reflecting his recent travel to the Philippines on August 24, 2012.

#### *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 sustain the petitioner's appeal and withdraw the director's denial of the petition.

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 appeal is sustained. The denial is withdrawn. The petition is approved.