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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Service  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

[Redacted]

DATE: **MAY 20 2015**

Office: VERMONT SERVICE CENTER

[Redacted]

IN RE:

Petitioner:

[Redacted]

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:

[Redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center (the director), denied the petition for an alien fiancé(e), and the matter is now before the Administrative Appeals Office on appeal. The decision will be withdrawn and the matter will be remanded for further action.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Vietnam, as the fiancée 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 petition for an alien fiancé(e) pursuant to 8 C.F.R. § 103.2(b)(8)(ii) because the petitioner failed to establish eligibility for the benefit sought. On appeal, the petitioner submits 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 March 12, 2012 without sufficient supporting evidence. For this reason, on November 16, 2012, the director denied the petition. On appeal, the petitioner submits proof of his U.S. citizenship; evidence of his divorce decree; evidence

of his and the beneficiary's intent to marry within 90 days of her admission into the United States; evidence that he and the beneficiary have met in person within the two year immediately preceding the filing of the petition; his and the beneficiary's passport-style photographs; and Forms G-325A, Biographic Information, for him and the beneficiary.

#### *Analysis*

We conduct appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

Although the petitioner has submitted all the required initial evidence to support his petition, the Form I-129F record is not complete as the petitioner failed to answer Page 3, Part C.2 and, if necessary, Part C.3 of the form regarding prior criminal conviction(s).

#### *Conclusion*

The matter will be remanded in order for the director to provide the petitioner with an opportunity to submit a newly-signed last page of the Form I-129F to indicate a response to question 2 regarding criminal history. The director may request any additional information or evidence that he deems necessary. In fiancé(e) visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1); *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013).

**ORDER:** The director's decision of November 16, 2012 is withdrawn. The matter is remanded for further action. If the new decision is adverse to the petitioner, the director shall certify it to us for review.