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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

PUBLIC COPY

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FILE:

EAC 07 217 51642

Office: VERMONT SERVICE CENTER

Date: AUG 28 2008

IN RE:

Petitioner:

Beneficiary:



PETITION: Petition for Alien Fiancé(e) Pursuant to Section 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:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

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

The petitioner is a naturalized citizen of the United States who seeks to classify the beneficiary, a native and citizen of Sierra Leone, as the fiancé of a United States citizen pursuant to section 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 due to abandonment after the petitioner failed to respond to a Notice of Action (Form I-797) issued on November 29, 2007, which requested further evidence. *Decision of the Director*, dated February 11, 2008.

The regulation at 8 C.F.R. § 103.2(b)(13) provides that if all requested initial evidence is not submitted by the required date, the application or petition shall be considered abandoned and, accordingly, shall be denied. Pursuant to 8 C.F.R. § 103.2(b)(15), a denial due to abandonment may not be appealed. However, an applicant or petitioner may file a motion to reopen under 8 C.F.R. § 103.5.

The AAO finds that the applicant's appeal must be rejected as a denial due to abandonment cannot be appealed. The appeal is therefore rejected.

ORDER: The appeal is rejected.