



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

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF J-I-O-

DATE: DEC. 4, 2015

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-129F, PETITION FOR ALIEN FIANCÉ(E)

The Petitioner, a native of Nigeria and citizen of the United States, seeks to classify the Beneficiary as the fiancée of a United States citizen. *See* Immigration and Nationality Act (the Act) § 101(a)(15)(K), 8 U.S.C. § 1101(a)(15)(K). The Director, Vermont Service Center, denied the petition. The matter is now before us on appeal. The appeal will be dismissed.

On September 12, 2011, the Director denied the nonimmigrant visa petition because the Petitioner did not submit the required initial evidence in support of the Petition for Alien Fiancé(e). On October 14, 2011, the Petitioner filed a motion to reopen, which the Director again denied for lack of required documentation, including proof of the Petitioner's U.S. citizenship, biographical information, and passport-style photos. On appeal, the Petitioner submits proof of his U.S. citizenship that was previously lacking from the record.

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 [his] 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

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requirements for filing a Form I-129F, including a description of the required initial evidence, may be found in the Instructions to the Form I-129F.

The Petitioner filed the fiancé(e) petition with USCIS on April 20, 2011 without any supporting evidence. For this reason, the Director denied the petition on September 12, 2011. The denial found the petition failed to comply with regulatory requirements regarding supporting documentation. When the Petitioner filed a motion to reopen that was also unsupported, on December 28, 2011, the Director sent a request for evidence (RFE) specifying the missing documentation. Upon receiving no response to the RFE within the allotted time, the Director affirmed the original denial. On appeal, the Petitioner provides copies of his naturalization certificate and other evidence.

The evidence on the record indicates that the Petitioner became a U.S. citizen upon his naturalization on June 21, 2012, more than one year after he filed the Form I-129F. At the time he filed the Form I-129F in April 2011, the Petitioner was a lawful permanent resident and was not eligible to petition to classify the Beneficiary as the fiancée of a citizen of the United States under section 101(a)(15)(K) of the Act.

The appeal will be dismissed for the above stated reasons. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here the petitioner has not met that burden.

ORDER: The appeal is dismissed.

Cite as *Matter of J-I-O-*, ID# 14011 (AAO Dec. 4, 2015)