U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

FILE: [redacted] Office: Missouri Service Center Date: APR 21 2003

IN RE: Petitioner: [redacted]
Beneficiary:

APPLICATION: Petition for Alien Fiancé(e) under 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

PUBLIC COPY

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.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Missouri Service Center, and is before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner is a native of the Philippines and naturalized citizen of the United States. The beneficiary is a native and citizen of the Philippines and daughter of the petitioner. The petitioner seeks to have the beneficiary classified as a K-4 child of a U.S. citizen. The director denied the petition after determining that the beneficiary is not eligible for such classification because she is not the derivative beneficiary of an approved K-3 nonimmigrant visa petition.

On appeal, the petitioner states that the decision is a violation of the clear intent of the Legal Immigration Family Equity (LIFE) Act which provides nonimmigrant "K" classification for spouses and children of United States citizens who wish to enter the United States as non-immigrants. The petitioner states that the beneficiary's father is deceased and could no longer be the recipient of a K-3 visa.

To be eligible for the "K-4" nonimmigrant visa classification, an alien must be the unmarried child of a K-3 alien who is accompanying or following to join him or her. A K-4 nonimmigrant visa may only be issued to a derivative dependent of a K-3 nonimmigrant.

The record indicates that the beneficiary's parents were married in July 1955 and the beneficiary was born in the Philippines on September 18, 1956. The record also indicates that the applicant's mother became a naturalized U.S. citizen on January 8, 1985. A Petition for Alien Relative (Form I-130) was approved on behalf of the beneficiary in September 1991 and forwarded to the U.S. Consulate in Manila. Approval of the Form I-130 would be sufficient for the beneficiary to apply for an immigrant visa abroad from the Department of State.

In the matter at hand, the child of a K-3 visa holder derives K-4 status from the K-3 parent and a separate Form I-129F fiancé(e) visa petition is not required. An eligible K-4 alien has only to report to the appropriate consular office having jurisdiction over their residence abroad. Further, the beneficiary was 45 years and 5 months old when the petition was filed. As such, she no longer qualifies as a "child" (a person under 21 years of age) for K-4 visa purposes. Since a separate Form I-129F is not required, the appeal will be dismissed.

ORDER: The appeal is dismissed.