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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

[redacted]

FILE: [redacted] Office: Missouri Service Center Date: APR 22 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:

[redacted]

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 and citizen of the United States. The beneficiary is a native and citizen of the Philippines and the step-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 he is not the derivative beneficiary of an approved K-3 nonimmigrant visa petition.

On appeal, counsel states that the Service, now the Bureau, erred in holding that the beneficiary is not entitled to file a separate Form I-129F petition to be eligible for nonimmigrant K-4 classification.

The record indicates that the beneficiary's step-father and mother were married in June 2000 in Reno, Nevada. The status of the beneficiary's mother is not indicated in the record. The beneficiary was born in the Philippines on September 14, 1981. A Petition for Alien Relative (Form I-130) was filed on behalf of the beneficiary on June 12, 2001. Approval of the Form I-130 would be sufficient for the beneficiary to apply for an immigrant visa abroad from the Department of State.

Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K), provides nonimmigrant classification to an alien who:

> (i) is the fiancé(e) of a U.S. citizen and who seeks to enter the United States solely to conclude a valid marriage with that citizen within 90 days after admission;
>
> (ii) has concluded a valid marriage with a citizen of the United States who is the petitioner, is the beneficiary of a petition to accord a status under section 201(b)(2)(A)(i) that was filed under section 204 by the petitioner, and seeks to enter the United States to await the approval of such petition and the availability to the alien of an immigrant visa; or
>
> **(iii) is the minor child of an alien described in clause (i) or (ii) and is accompanying, or following to join, the alien.**

{Emphasis added}

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. However, the alien must still provide proof that he or she is the son or daughter of an alien granted K-3 status.

That has not been done in the present case. There is no provision in the law for a child to file a separate I-129F petition. Therefore, the appeal will be dismissed.

ORDER: The appeal is dismissed.