

(b)(6)



U.S. Citizenship  
and Immigration  
Services

Date: DEC 20 2013

Office: CALIFORNIA SERVICE CENTER

File: [REDACTED]

IN RE:

Petitioner: [REDACTED]

Beneficiary: [REDACTED]

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:

SELF-REPRESENTED

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,

  
Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center (the director), denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained and the petition will be approved.

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 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 nonimmigrant visa petition because the petitioner failed to submit any initial evidence or supporting documentation. On appeal, the petitioner submits a statement and 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 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 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 fiancée petition with USCIS on August 29, 2012 without any supporting evidence. For this reason, the director denied the petition on April 29, 2013. On appeal, the petitioner provides additional evidence.

*Analysis*

The petitioner has submitted on appeal all of the required initial evidence including: proof of the petitioner's U.S. citizenship; a Form G-325A, Biographic Information, for the petitioner and the beneficiary; two (2) passport-style color photographs of the petitioner and the beneficiary; original statements from the petitioner and the beneficiary to establish their mutual intent to marry within 90 days of the beneficiary's admission into the United States in K-1 status; the petitioner's U.S. passport with entry and exit stamps from Vietnam dated December 12, 2010 and January 9, 2011, and then December 30, 2011 and February 2, 2012; photographs of the petitioner with the beneficiary as evidence that the petitioner and the beneficiary have met in person between August 29, 2010 and August 29, 2012, which is the two-year period immediately preceding the filing of the petition; and evidence that the petitioner was legally free to marry the beneficiary at the time of filing the Form I-129F.

*Conclusion*

In fiancée 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). Here, that burden has been met.

**ORDER:** The appeal is sustained. The petition is approved.