



U.S. Citizenship
and Immigration
Services

(b)(6)

Date: APR 02 2015

Office: VERMONT 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. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,


Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont 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 dismissed. The petition will remain denied.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Ecuador, 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, noting that the petitioner had not submitted any evidence in support of the Petition for Alien Fiancé(e) (Form I-129F). On appeal the petitioner submits photographs, copies of Skype printouts, and a statement from family members.

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 [her] 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 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 fiancé(e) petition with USCIS on August 31, 2012 without any supporting evidence. For this reason, the director denied the petition. On appeal, filed on April 23, 2013 and received by the AAO on November 6, 2014, the applicant submits evidence to establish his relationship with the beneficiary including photographs, Skype printouts, and a statement from family members.

Analysis

The petitioner has not submitted probative evidence that he and the beneficiary have met in person between August 31, 2010 and August 31, 2012, which is the two-year period immediately preceding the filing of the petition. The petitioner has also failed to submit the required passport-style photographs of the petitioner and the beneficiary; the Form G-325A, Biographic Information, for both the petitioner and the beneficiary; and letters from the beneficiary and the petitioner indicating their intent to marry within 90 days of the beneficiary's admission into the United States. The petitioner indicated on Form I-129F that he is divorced, but failed to submit evidence of termination of any previous marriages. The appeal will therefore be dismissed.

Conclusion

In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. Here, that burden has not been met.

ORDER: The appeal is dismissed. The petition remains denied.