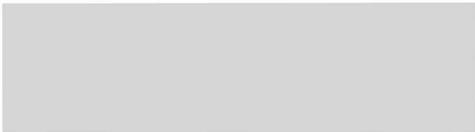




U.S. Citizenship
and Immigration
Services

(b)(6)



Date: **APR 14 2015** Office: TEXAS SERVICE CENTER FILE:

IN RE: Petitioner:
Beneficiary:

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:

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, Texas Service Center, 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 Ghana, as the fiancé 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 submitted supporting documents that were not in compliance with regulatory requirements and thus the record does not establish eligibility. On appeal, the petitioner submits additional evidence, including copies of her certificate of naturalization and her passport, a G-325 signed by the beneficiary, and photos of the beneficiary.

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 December 17, 2012, without sufficient supporting evidence. For this reason, the director issued a request for additional evidence and, in response the petitioner submitted additional documentary evidence. The director denied the petition finding that the petitioner had submitted supporting documents that are not in compliance with

regulatory requirements for such documents and that the record therefore does not establish eligibility for the requested benefit.

On appeal, the petitioner provided some originals and additional copies of previously-submitted documents. As the director's decision had not indicated which documents were noncompliant we provided the applicant the opportunity to submit particular documents, specifically copies of the front and back of her original naturalization certificate and copies of all pages of her U.S. passport; a completed and signed Form G-325A for the beneficiary; and two passport-style photos of the beneficiary taken within the past 30 days. *See Request for Evidence* dated January 29, 2015.

Analysis

The petitioner has submitted some of the documentation requested in the original RFE, and the record contains letters from the beneficiary and the petitioner expressing their intent to marry within 90 days of the beneficiary's admission into the United States. However, the petitioner has not submitted probative evidence that she and the beneficiary met in person between December 17, 2010, and December 17, 2012, which is the two-year period immediately preceding the filing of the petition. The evidence in the record, including the petitioner's passport, her statement, and letters from family, reflects that the petitioner met the beneficiary in Ghana in January 2010, prior to the commencement of the two-year period immediately preceding the filing of the petition. Although the beneficiary and petitioner have met, their last meeting fell outside the two-year period preceding the filing of the petition. The appeal will therefore be dismissed.

Conclusion

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.