



U.S. Citizenship
and Immigration
Services

(b)(6)

Date: **APR 20 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 Haiti, as the fiancé of a United States citizen pursuant to § 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, finding the petitioner failed to establish that she met the beneficiary in person during the two-year period before she filed the Form I-129F, Petition for Alien Fiancé. On appeal, the petitioner asserts that traveling to Haiti would create a financial hardship for her.

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 June 17, 2013 without sufficient supporting evidence. For this reason, the director issued a request for additional evidence and, in response, the petitioner submitted statements from the petitioner and the beneficiary expressing their intent to marry, biographical information sheets; and passport-style photos of the petitioner.

The director denied the petition finding that the petitioner had failed to submit evidence to establish that she and the beneficiary had met in person during the two-year period immediately preceding the filing of the petition as required under section 241(d) of the Act, or that she merits a waiver of the meeting requirement. On appeal, the petitioner explains that she did not meet the beneficiary in person within two years prior to filing the petition because she could not afford to travel to Haiti. The petitioner also submits evidence that she has since met the beneficiary in Haiti.

Analysis

To support her claim that she merits a waiver of the meeting requirement due to her financial hardship, the petitioner submits her tax return transcripts for the years 2010, 2011 and 2012.

She has not submitted probative evidence that she and the beneficiary met in person between June 17, 2011 and June 17, 2013, which is the two-year period immediately preceding the filing of the petition, or evidence that she merits a favorable exercise of discretion to exempt her from such requirement pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2). The evidence in the record reflects that the beneficiary and the petitioner met in Haiti in August 2013, after the filing of the fiancé petition

The evidence of the couple's meeting in August 2013 would be relevant to a new fiancé petition that the petitioner may file for the beneficiary in the future, but it has no relevance to whether the couple met during the period applicable to this petition.

Pursuant to 8 C.F.R. § 214.2(k)(2), the petitioner may be exempted from the requirement for a meeting with the beneficiary if it is established that compliance would:

- (1) result in extreme hardship to the petitioner; or
- (2) that compliance would violate strict and long-established customs of the beneficiary's foreign culture or social practice, as where marriages are traditionally arranged by the parents of the contracting parties and the prospective bride and groom are prohibited from meeting subsequent to the arrangement and prior to the wedding day. In addition to establishing that the required meeting would be a violation of custom or practice, the petitioner must also establish that any and all other aspects of the traditional arrangements have been or will be met in accordance with the custom or practice.

As previously noted, the petitioner and the beneficiary have subsequently met. Thus, the petitioner's claim that the couple's inability to meet within the required period was due to extreme hardship, specifically financial hardship, has diminished merit. Moreover, difficulty arranging a meeting in a country due to financial considerations is not uncommon. The couple's meeting a few months after filing the fiancé petition establishes that the filing of the petition was premature.

(b)(6)

NON-PRECEDENT DECISION

Page 4

Conclusion

The appeal will be dismissed for the above stated reasons. In fiancé 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 not been met. As stated at 8 C.F.R. § 214.2(k)(2), the denial of this petition is without prejudice to the filing of a new petition.

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