U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office
20 Massachusetts Avenue, NW, MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

(b)(6)

DATE: AUG 0 5 2015

FILE:
PETITION RECEIPT:

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:

NO REPRESENTATIVE OF RECORD

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, denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of the Dominican Republic, as the fiancée of a U.S. 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 pursuant to 8 C.F.R. § 103.2(b)(8)(ii) because the petitioner failed to submit sufficient evidence to establish eligibility. On appeal, the petitioner submits 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 Form I-129F, 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.

The statutory requirement of an in-person meeting between the petitioner and the beneficiary is further explained at 8 C.F.R. § 214.2(k)(2), which states, in pertinent part:

> The petitioner shall establish to the satisfaction of the director that the petitioner and K-1 beneficiary have met in person within the two years immediately preceding the filing of the petition. As a matter of discretion, the director may exempt the petitioner from this requirement only if it is established that compliance would result in extreme hardship to the petitioner . . . .

The regulation does not define what may constitute extreme hardship to the petitioner. Therefore, each claim of extreme hardship must be judged on a case-by-case basis taking into account the totality of the petitioner's circumstances.

Factual and Procedural History

The petitioner filed the Form I-129F on March 6, 2013, without supporting evidence. On August 29, 2013, the director issued a notice of intent to deny (NOID) requesting evidence of the petitioner's U.S. citizenship; two passport-style photographs of the petitioner and the beneficiary; letters from the petitioner and the beneficiary stating their intent to marry one another within 90 days of the beneficiary's admission to the United States in K-1 status; evidence that the petitioner and the beneficiary met each other during the two-year period between March 6, 2011 and March 6, 2013; and Forms G-325A, Biographic Information (Form G-325A), for the petitioner and the beneficiary.

In response to the NOID, the petitioner submitted the biographic-information page of his U.S. passport and a Form G-325A for himself. As the petitioner did not submit all of the required evidence, the director denied the petition on January 17, 2014.

On appeal, the petitioner submits a Form G-325A for the beneficiary, a letter from the beneficiary stating her intent to marry the petitioner within 90 days of her admission to the United States in K-1 status, travel confirmation records for the petitioner's two trips to the Dominican Republic, a passport-style photo of the petitioner, and an undated photograph of the beneficiary and the petitioner.

Analysis

The petitioner has provided some, but not all, of the required evidence. The record lacks evidence to show that the petitioner and the beneficiary met each other during the two-year period immediately preceding the filing the Form I-129F. The petitioner indicated on the Form I-129F that he travelled to the Dominican Republic on 4 occasions during the 18-month period preceding filing of the petition. The petitioner submits what appear to be travel confirmation e-mail records concerning travel plans for the Dominican Republic in June and September. However, the sender, date of mailing, and year of proposed travel are not indicated on the confirmation document, and the petitioner does not submit evidence that he actually traveled to the Dominican Republic during the relevant time period. In addition, the petitioner submits a photo of himself and the beneficiary, but the photo is not dated. The record does not include other evidence to corroborate claims that the

petitioner traveled to the Dominican Republic, such as passport stamps, or other evidence of the petitioner's and beneficiary's meeting during the two-year period between March 6, 2011 and March 6, 2013. The evidence provided is insufficient to establish that the petitioner and the beneficiary met during the requisite period.

The record also lacks a statement from the petitioner stating his intent to marry the beneficiary within 90 days of her admission into the United States in K-1 status. While the record includes a letter from the petitioner stating that he intends to marry the beneficiary, it does not state that the petitioner will marry the beneficiary within 90 days of her admission into the United States in K-1 status. The petitioner's letter, therefore, does not meet the requirements. In addition, the record lacks passport-style photographs of the beneficiary.

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, USCIS may, in its discretion, deny the petition for lack of initial evidence. The petitioner failed to submit the required documentation, and the beneficiary may not benefit from the instant petition. The petitioner bears the burden of proof in these proceedings.

Conclusion

As the petitioner still has not submitted all of the required initial evidence on appeal, the director's decision to deny the petition shall not be disturbed. 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 not been met.

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