



U.S. Citizenship
and Immigration
Services

(b)(6)



Date: **AUG 19 2015**

FILE: [REDACTED]
PETITION RECEIPT: [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:

NO REPRESENTATIVE OF RECORD

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to 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 native and 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 Form I-129F, Petition for Alien Fiancé(e), pursuant to 8 C.F.R. § 103.2(b)(8)(ii), because the petitioner failed to submit required initial evidence. 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, 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 February 25, 2013, without supporting evidence. On August 28, 2013, the director issued a notice of intent to deny the petition (NOID), explaining that the petition lacks required evidence listed in the *Instructions* to Form I-129F, and offering the petitioner an opportunity to submit it. In response, the petitioner submitted a letter stating that he misstated the beneficiary's date of birth on the Form I-129F, and he also provided numerous money transfer receipts to show that he supports the beneficiary financially. As the petitioner did not submit all of the required evidence, the director denied the petition on January 31, 2014.

On appeal, the petitioner submits photocopies of the biographic page of his U.S. passport and four passport pages with travel stamps to and from the Dominican Republic, reflecting dates in March 2011, December 2011, December 2013, and January 2013; an Internet printout from an airline website showing the petitioner's travel history, including flight tickets and boarding passes from [REDACTED] to the Dominican Republic in December 2012 and January 2013; and several undated photographs of the petitioner and the beneficiary. Cumulatively these records establish that the petitioner and the beneficiary met during the two-year preceding filing of the Form I-129F. In addition, the petitioner submits a passport-style photo of himself.

Analysis

The petitioner has provided some, but not all, of the required evidence. The *Instructions* to the Form I-129F require that both the petitioner and the beneficiary provide evidence of their intent to marry one another within 90 days of the beneficiary's admission to the United States in K-1 status. The record still lacks this evidence. Although on appeal the petitioner states that seeks to bring the beneficiary to United States to marry her, he does not state that he and she intend to marry within 90 days of her admission into the United States in K-1 status. Moreover, the record lacks other supporting documentation, such as evidence of wedding plans and arrangements, that would satisfy this requirement. In addition, the record lacks a passport-style photograph of the beneficiary and completed two Form(s) G-325A, Biographic Information for the petitioner and 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 did not 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 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.