



U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **AUG 31 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

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](http://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 (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 petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of the Philippines, 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), because the petitioner did not establish that he and the beneficiary met in person during the two-year period immediately preceding the filing of the petition or that he is exempt from such a requirement.

On appeal, the petitioner provides a personal statement and evidence of his medical conditions, including a letter from his treating physician and supporting medical documentation.

*Applicable Law*

Section 101(a)(15)(K) of the Act provides nonimmigrant classification to, in pertinent part:

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 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 November 28, 2012. Therefore, the petitioner and beneficiary were required to have met between November 28, 2010, and November 28, 2012. On the Form I-129F, the petitioner responded "no" to the question about whether he and the beneficiary had met in person within the two-year period preceding the filing of the petition. In a letter dated November 14, 2012, the petitioner stated that he is an insulin dependent diabetic with a severe visual handicap caused by diabetic hemorrhaging in his eyes.

In a June 3, 2013, Request for Evidence (RFE), the director asked the petitioner for evidence showing he met the beneficiary in person during the required time period or evidence to request a waiver of the meeting requirement. The director also requested that the petitioner submit statements from him and the beneficiary of their intention to marry one another within 90 days of the beneficiary's admission into the United States, proof of the petitioner's legal termination of his two prior marriages, and passport-style photos for the petitioner. In response to the RFE, the petitioner provided all of the requested evidence, except proof of having met the beneficiary in person during the two-year period immediately preceding the filing of the Form I-129F.

In denying the petition, the director stated that the petitioner had not demonstrated that his medical condition prevented him from meeting the beneficiary. The director noted that in response to the RFE, the petitioner submitted a letter from his doctor, who referenced "various health-related issues" and stated that it would not be feasible for the petitioner to travel; however, the doctor did not explain how traveling to meet the beneficiary would be detrimental to the petitioner's health and why the petitioner is unable to travel.

On appeal, the petitioner asserts that travelling unaccompanied would be "extremely difficult" for him. He explains that he lost his vision due to laser surgery to prevent recurrence of hemorrhaging in his eyes, and as a result he has tunnel vision and can see only at a fixed point and cannot travel. He adds that he is unable to step down from street curbs and cannot ascend and descend stairs; he also cannot detect hazardous objects on sidewalks and cannot read normal-size text. The petitioner also states that in May 2013, the New Mexico Department of Motor Vehicles revoked his driver's license because of the danger driving poses to himself and others.

The remaining medical documentation submitted by the petitioner predates his filing of the Form I-129F. A medical chart, dated March 19, 2013, reflects that the petitioner was diagnosed with diabetes with ophthalmic manifestations likely accounting for significant vision loss. Another medical chart, dated March 26, 2013, reflects “severe vision affected/impaired.”

### *Analysis*

The issue here is whether the petitioner has submitted sufficient evidence to establish that compliance with the meeting requirement would have caused him extreme hardship during the relevant period, which is the two-year period preceding the filing of the petition. The petitioner asserts that travel out of the country would have caused him extreme hardship due to his medical condition. The medical documents indicate that the petitioner suffers from diabetes and vision impairment which worsened after he filed the Form I-129F. The medical records, however, do not establish the petitioner would have suffered extreme hardship if he travelled to meet the beneficiary during the required period, between November 28, 2010, and November 28, 2012. On appeal, the petitioner has not established that compliance with the meeting requirement would have caused him extreme hardship. The relevant evidence does not demonstrate that the petitioner merits a favorable exercise of discretion to waive the meeting requirement due to the extreme hardship compliance would cause the petitioner.

### *Conclusion*

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 has not submitted the required documentation, and the beneficiary may not benefit from the instant petition.

As the petitioner has not submitted 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.