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

(b)(6)

U.S. Citizenship and Immigration Services

Date: JAN 1 4 2015 Office: CALIFORNIA 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:

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.

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center (the director), denied the nonimmigrant visa petition, and the matter came before the Administrative Appeals Office (AAO) on appeal. The appeal was dismissed. The petitioner has filed a motion to reopen. The motion will be granted. The appeal will be sustained.

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 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 because the petitioner failed to establish eligibility for the benefit sought. The director noted that the petitioner failed to submit the beneficiary's intent to marry within 90 days of her admission into the United States. The petitioner's appeal was dismissed. The petitioner now files a motion to reopen. The motion is accompanied by additional documentary evidence and meets the regulatory requirements for a motion to reopen. *See* 8 C.F.R. § 103.5. The motion will therefore be granted.

Applicable Law

According to the regulation at 8 C.F.R. § 103.5(a)(2), a motion to reopen must state the new facts to be provided and be supported by documentary evidence.

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. . . .

Factual and Procedural History

The petitioner filed the fiancé(e) petition with USCIS without sufficient supporting evidence. For this reason, the director issued a request for additional evidence and, in response, the petitioner submitted a photocopy of the Form I-129F. The director denied the petition. We dismissed the petitioner's appeal

and the petitioner has now filed a motion to reopen. The petitioner's motion is accompanied by a statement from the beneficiary expressing her intent to marry within 90 days of her admission into the United States.

Analysis

The petitioner has now submitted all of the required evidence. His motion is accompanied by a statement from the beneficiary expressing her intent to marry the petitioner within 90 days of her admission into the United States. The petitioner's motion to reopen will be granted and the appeal will be sustained.

Conclusion

The appeal will be dismissed for the above stated reasons. In fiancé(e) visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has been met.

ORDER: The motion is granted. The appeal is sustained.