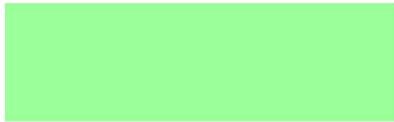


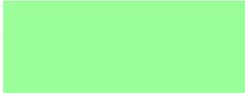
(b)(6)

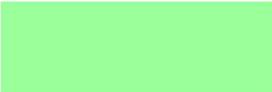


U.S. Citizenship
and Immigration
Services



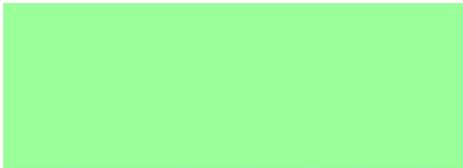
Date: **JAN 14 2015** Office: CALIFORNIA SERVICE CENTER

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:

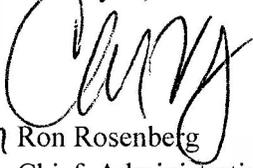


INSTRUCTIONS:

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,



for Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The California Service Center director (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 and the petition will be denied.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Macedonia, 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 that he and the beneficiary met in person during the two-year period immediately preceding the filing of the Petition for Alien Fiancé(e) (Form I-129F), or that he is exempt from such a requirement. On appeal, the petitioner submits a brief and 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 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:

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 or that compliance would violate strict and long-established customs of the K-1 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. Failure to establish that

the petitioner and K-1 beneficiary have met within the required period or that compliance with the requirement should be waived shall result in the denial of the petition. Such denial shall be without prejudice to the filing of a new petition once the petitioner and K-1 beneficiary have met in person.

Factual and Procedural History

The petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) with U.S. Citizenship and Immigration Services (USCIS) on December 4, 2013. Therefore, the petitioner and beneficiary were required to have met between December 4, 2011, and December 4, 2013. In a January 23, 2014, Request for Evidence (RFE), the director informed the petitioner that he must either submit evidence of having met the beneficiary in person during the required time period or evidence to request a waiver of the meeting requirement. In response, the petitioner submitted additional evidence which the director found insufficient to establish that the petitioner had personally met the beneficiary during the requisite time period. The director denied the petition and the petitioner timely appealed.

We review these proceedings *de novo*. Although the petitioner overcame the director's ground for denial, a full review of the record fails to establish the petitioner's eligibility. The appeal will be dismissed for the reasons stated below.

Analysis

On appeal, the petitioner submitted a copy of his Macedonian passport issued at [REDACTED], Macedonia on October [REDACTED]. The record reflected that the petitioner and the beneficiary took part in a religious ceremony of marriage on October [REDACTED] while they were together in Macedonia. The petitioner submitted additional photos of the couple's time together.

Accordingly, the evidence establishes that the petitioner traveled to Macedonia within the two-year requisite time period. The director's decision to the contrary is withdrawn.

The petition may not be approved, however, because the evidence indicates that the petitioner and the beneficiary married in an Islamic ceremony on October [REDACTED] and thus the beneficiary is not eligible for the fiancée visa as she is already married to the petitioner. On November 24, 2014, we requested the petitioner to submit evidence to establish that the marriage is not valid under the law of Macedonia. In response, the petitioner submitted a certificate from the Republic of Macedonia Ministry of Justice Administration for Dealing with Registers, dated December 2, 2014, indicating that the beneficiary is single and that there are no impediments to her marrying the petitioner. The certificate does not indicate whether the religious ceremony was considered and what legal effect, if any, the Islamic marriage had on her civil status. The petitioner does not submit any other documentation to establish that the couple's marriage is not valid under the law of Macedonia. The law of a foreign country is a question of fact which must be proved by the petitioner if he relies on it to establish eligibility for an immigration benefit. *Matter of Annang*, 14 I&N Dec. 502 (BIA 1973). As the petitioner failed to address the legal effect, if any, of the marriage ceremony on October [REDACTED] the petitioner has not established that he and the beneficiary are legally able to enter into a marriage within 90 days of her arrival in the United States.

Conclusion

The record does not establish that the petitioner and the beneficiary are legally able to conclude a valid marriage within 90 days of the beneficiary's entry into the United States. Consequently, the instant petition must remain denied and the appeal is, therefore, dismissed.

In fiancé(e) 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. sec 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.