



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: JAN 15 2015

Office: CALIFORNIA SERVICE CENTER

FILE: [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:

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. 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, California Service Center (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 Iran, as the fiancé(e) 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 petition because the petitioner failed to support her claim that she merited a favorable exercise of discretion regarding her request for a waiver of the limitations against multiple fiancée petitions pursuant to section 214(d)(2)(B) of the Act.

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. . . .

Section 214(d)(2)(A) of the Act provides, in part, that:

the Secretary of Homeland Security may not approve a petition under paragraph (1) unless the Secretary has verified that –

- (i) The petitioner has not, previous to the pending petition, petitioned under paragraph (1) with respect to two or more applying aliens; and
- (ii) If the petitioner has had such a petition previously approved, 2 years have elapsed since the filing of such previously approved petition.

Section 214(d)(2)(B) of the Act provides that U.S. Citizenship and Immigration Services (USCIS) may, in its discretion, waive the filing limitations if justification exists for such a waiver.

Facts and Procedural History

The petitioner filed the fiancé(e) petition with USCIS on April 7, 2014. On May 23, 2014 the director issued a request for evidence (RFE), advising the petitioner that records showed that she has filed multiple fiancé(e) petitions. The director notified the petitioner that she was subject to the statutory provisions prohibiting multiple filings of nonimmigrant fiancé(e) visa petitions, and would have to request a waiver of the filing limitations. The director also requested that the petitioner and the beneficiary each submit a Form G-325A Biographic Information, a copy of the beneficiary's divorce decree, and a statement from the beneficiary of his intent to marry the petitioner within 90 days of arrival into the United States. In response, the petitioner submitted a letter from her mother and from the beneficiary's parents consenting to the marriage. Upon review of the response, the director denied the petition as barred by the provisions against multiple filings, and because the petitioner failed to submit a statement of intent to marry from the beneficiary and Forms G-325A as requested.

On appeal, the petitioner submits a statement and additional evidence.

Analysis

We review the evidence *de novo*.

On appeal, the petitioner requests a favorable exercise of discretion despite the multiple filing bar because her first husband left her after one year of marriage and she would like to have a family, and asks for a second chance. The petitioner does not document unusual circumstances or submit documentary evidence in support of her request for a waiver of the filing limitations. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)). The petitioner has failed to demonstrate that she merits a favorable exercise of discretion to waive the filing limitations.

The petitioner submitted a general statement from the beneficiary of his intention to marry the petitioner, and copies of an event reservation from the [REDACTED] for a wedding on December [REDACTED]. The beneficiary failed to state that he intends to marry the petitioner within 90 days of his arrival into the United States. The petitioner failed to submit Forms G-325A for either herself or the beneficiary on appeal.

Beyond the decision of the director, the record does not reflect that the parties were legally able to conclude a valid marriage in the United States as of the filing date of the petition. The record does not contain a certificate of divorce between the beneficiary and his former wife. Nor does the record contain evidence that the petitioner and the beneficiary met in person within two years immediately preceding the filing date of the petition. The record does not contain evidence of the petitioner's entry into or exit from Iran in August and September, 2013 or of the beneficiary's travel to Istanbul,

such as copies of passport pages with entry or exit stamps or a boarding pass into the relevant countries. For these additional reasons, the petition may not be approved.¹

Conclusion

The record establishes that the petition is subject to the statutory filing limitations, and the petitioner has not established that she is eligible for a waiver of the limitations. The petitioner did not submit Forms G-325A or sufficient proof of the beneficiary's intention to marry within 90 days of arrival into the United States. The record does not reflect that the petitioner and the beneficiary were legally able to conclude a marriage as of the filing date, and that they met in person within two years immediately preceding the filing date of the petition. As such, the director's decision to deny the petition shall not be disturbed.

The burden of proof in these proceedings rests solely with the petitioner. 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, the petitioner has not met that burden.

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

¹ An application or petition that fails to comply with the technical requirements of the law may be denied by the AAO even if the service center does not identify all of the grounds for denial in the initial decision. See *Spencer Enterprises, Inc. v. United States*, 229 F. Supp. 2d 1025, 1043 (E.D. Cal. 2001), *aff'd*, 345 F.3d 683 (9th Cir. 2003).