



U.S. Citizenship
and Immigration
Services

(b)(6)



Date:

JUL 08 2015

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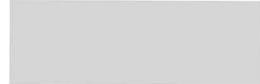


PETITION RECEIPT #:



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

INSTRUCTIONS:

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for 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,

fr

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Acting 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 petition will remain denied.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Guatemala, as the fiancée of a United States citizen pursuant to section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K).

The acting director denied the nonimmigrant visa petition, noting that the petitioner had not submitted any evidence in support of the Petition for Alien Fiancé(e) (Form I-129F). *Decision of the Acting Director*, dated June 11, 2013. On appeal, filed on June 25, 2013, and received by the AAO on January 12, 2015, the petitioner submits a statement along with photographs, copies of bank statements, and copies of email communication between the petitioner and beneficiary.

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 [her] 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.

Factual and Procedural History

The petitioner filed the fiancé(e) petition with USCIS on February 11, 2013, without any supporting evidence. For this reason, the director denied the petition. On appeal, the petitioner submits a statement and evidence to establish his relationship with the beneficiary, including photographs, bank records, and email correspondence.

Analysis

The petitioner has failed to submit required evidence in support of the petition. The record lacks the required passport-style photographs of the petitioner and the beneficiary; the Biographic Information (Form G-325A) for both the petitioner and the beneficiary; and letters from the beneficiary and the petitioner indicating their intent to marry within 90 days of the beneficiary's admission into the United States. On Form I-129F the petitioner indicates that he is divorced, but failed to submit evidence of the termination of any previous marriages to establish that he is legally able to conclude a valid marriage. On Form I-129F the petitioner indicates that he and the beneficiary met on February 14, 2009, but that date is outside the required two-year period before filing the petition. The petitioner has not claimed nor submitted probative evidence that he and the beneficiary met in person between February 11, 2011, and February 11, 2013, which is the two-year period immediately preceding the filing of the petition, or evidence that the petitioner merits a favorable exercise of discretion to exempt him from such requirement pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2).

Conclusion

The appeal will be dismissed for the above stated reasons. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here the petitioner has not met that burden.

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