



U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: JUL 08 2015

FILE: [REDACTED]

PETITION RECEIPT: [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:

NO REPRESENTATIVE OF RECORD

Enclosed is the non-precedent 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,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

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 Haiti, 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 nonimmigrant visa petition for abandonment, concluding that the petitioner had not responded to a request for evidence (RFE) showing that he and the beneficiary met in person during the two-year period immediately preceding the filing of the petition, or demonstrating that he is eligible for a waiver of the meeting requirement. On appeal, the petitioner asserts that he did submit the requested evidence in September 2013, and he submits additional evidence on appeal. The record reflects that on September 17, 2013, before the director's denial decision, the Vermont Service Center received the petitioner's response. Therefore, the director's decision to deny the petition for abandonment is withdrawn.

*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 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, Petition for Alien Fiancé(e) (Form I-129F), including a description of the required initial evidence, may be found in the *Instructions* to the Form I-129F.

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 Form I-129F on July 12, 2013. Therefore, the petitioner and the beneficiary were required to have met in person between July 12, 2011 and July 12, 2013. The director requested evidence of the petitioner having met the beneficiary in person during the required time period or the petitioner's request for a waiver of the meeting requirement; letters from the petitioner and the beneficiary stating their mutual intent to marry one another within 90 days of her arrival in the United States; and evidence that the petitioner terminated all marriages. In addition, the director also requested that the applicant and the beneficiary each submit a completed Form G-325A, Biographic Information Sheet (Form G-325A). In response, the petitioner submitted the following:

- 1) Letters from him and the beneficiary stating their mutual intent to marry one another within 90 days of the beneficiary's arrival in the United States;
- 2) A September 3, 2013, notarized letter from the petitioner's friend, who claims she knows the petitioner visited Haiti in April 2011 and that he met the beneficiary there. His friend also states that the petitioner made a few trips to Haiti to visit the beneficiary;
- 3) A September 14, 2013, notarized letter from another friend, who states he knows the petitioner visited Haiti in April 2011 and met the beneficiary there. This friend also describes a loving relationship between the petitioner and the beneficiary;
- 4) Travel documentation, including the petitioner's and the beneficiary's passports with travel stamps corresponding to airline tickets and boarding passes for travel from [REDACTED] to Haiti and back in April 2012.

- 5) Photographs of petitioner and the beneficiary together;
- 6) A judgment of divorce nisi, dated [REDACTED] 2011, from the Commonwealth of Massachusetts, Trial Court, Probate and Family Court Department, terminating the marriage between the petitioner and [REDACTED]; and,
- 7) Completed Forms G-325A for the petitioner and the beneficiary.

On appeal, the petitioner resubmits some of this evidence and submits the following additional relevant evidence:

- a) A certificate of divorce absolute from the Commonwealth of Massachusetts, Trial Court, Probate and Family Court Department, dated December 13, 2013, certifying that on [REDACTED] 2013, ninety days had expired since the entry of divorce nisi and that the judgment of divorce became absolute on [REDACTED], 2013; and,
- b) An English translation of a purported divorce certificate of [REDACTED] and his spouse [REDACTED] indicating that the divorce between the parties was finalized on [REDACTED] 2007.<sup>1</sup> The translation is not accompanied by the original divorce certificate in the language in which it was issued.

### *Analysis*

As stated at section 214(d)(1) of the Act, the relevant time in which the personal meeting between the petitioner and the beneficiary must occur is within the two-year period before the petition is filed. Here, the documentation provided that shows that the couple met in April 2012, within the required two-year period between July 12, 2011 and July 12, 2013. However, the evidence is insufficient to establish that the petitioner has terminated his previous marriages.

As noted above, the petitioner submitted an English-language translation of a divorce certificate of [REDACTED]<sup>2</sup> and his spouse [REDACTED]. The translation is not accompanied by the original divorce certificate in the language in which it was issued.

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<sup>1</sup> The petitioner indicated on the Form I-129F that this marriage ended on February 19, 2009. On his Form G-325A, Biographic Information Sheet, the petitioner does not indicate having any former wives.

<sup>2</sup> The petitioner indicated on the Form I-129F, at Part A, Number 7, "Other names Used," that he used the name [REDACTED]. The petitioner's name on his birth certificate is [REDACTED]. The name on his U.S. passport and the remaining supporting documents in the record is "[REDACTED]." On his Form G-325A, the petitioner does not indicate having used any other names. The record does not include documentation to establish that [REDACTED] and [REDACTED] are one and the same person.

*Conclusion*

Without the foreign language divorce certificate document, the statutorily required evidence that the petitioner has terminated all marriages has not been provided. Consequently, the beneficiary may not benefit from the instant petition.

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. § 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.