



U.S. Citizenship  
and Immigration  
Services

(b)(6)



Date: **JUL 09 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) 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](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 that reads "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The 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 petitioner is a native and citizen of the United States who seeks to classify the beneficiary, a native and citizen of Peru, as the fiancé 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 pursuant to 8 C.F.R. § 103.2(b)(8)(ii) because the petitioner failed to submit required initial evidence. On appeal, the petitioner states that when filing the petition, she thought a written statement was sufficient; she also states that she traveled to Peru in May 2012 and that she became pregnant with the beneficiary's child. The petitioner submits 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 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, in pertinent part:

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 . . . .

The regulation does not define what may constitute extreme hardship to the petitioner. Therefore, each claim of extreme hardship must be judged on a case-by-case basis taking into account the totality of the petitioner's circumstances.

*Factual and Procedural History*

The petitioner filed the Form I-129F on March 2, 2012, without supporting evidence; therefore the director denied the petition on October 16, 2012. On appeal, the petitioner states that between May 6, 2012 and June 7, 2012, she travelled to Peru, and during her visit the beneficiary asked permission from her father to marry her; and that she became pregnant with the beneficiary's child.

The petitioner provides a photocopy of her U.S. passport, an itinerary and e-receipt of her trip to Peru in May 2012, an ultrasound image, and a doctor's letter dated November 13, 2012, stating that the petitioner was 27 weeks pregnant and physically fit to travel. In addition, the petitioner submits seven photographs with hand-written dates, indicating that they were taken in June 2012 and in December 2012. Some of the photographs depict the petitioner and the beneficiary.

*Analysis*

The petitioner has submitted some, but not all, of the required initial evidence. The photographs she submits were not taken during the relevant period from March 2, 2010 and March 2, 2012, and do not establish that she and the beneficiary's met in person within the two-year period immediately preceding the filing of the petition. The petitioner, moreover, does not assert or provide evidence to show that she merits a favorable exercise of discretion to exempt her from such requirement pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2).

On appeal, the petitioner states that she thought that the written statement in the petition was sufficient. It is noted that on the Form I-129F, at Part B, Number 18, the petitioner indicated that she and the applicant met in Peru in December 2011 and at that time decided to formalize their relationship. However, the petitioner does not specify the date of her visit and does not provide documentation related to that visit, which could establish that she met the beneficiary during the two-year period immediately preceding the filing of the petition. The petitioner has not provided receipts, film-dated photographs, affidavits from individuals who have personal knowledge of the relationship, or any other evidence of meeting the beneficiary in the United States, Peru or a third country during the requisite period.

The record also lacks evidence from the petitioner and the beneficiary of their intent to marry within 90 days of the beneficiary's admission into the United States in K-1 status; Forms G-325A, Biographic Information, for both the petitioner and the beneficiary; passport-style photographs of the petitioner and a separate one for the beneficiary; and evidence of the petitioner and the beneficiary's meeting in person within the two-year period immediately preceding the filing of the petition.

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, USCIS may, in its discretion, deny the petition for lack of initial evidence. The petitioner did not submit the required documentation, and the beneficiary may not benefit from the instant petition. The petitioner bears the burden of proof in these proceedings.

*Conclusion*

As the petitioner still has not submitted all of the required initial evidence on appeal, the director's decision to deny the petition shall not be disturbed. 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 will remain denied.