



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) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,


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 citizen of the United States who seeks to classify the beneficiary, a native and citizen of Somalia, 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 because the petitioner did not establish that he met the beneficiary in person during the two-year period before he filed the Form I-129F, Petition for Alien Fiancé (Form I-129F). On appeal, the petitioner submits a statement to explain why he did not meet the beneficiary during the requisite period and that he met the beneficiary in June 2012, when he became able to afford to travel to Kuwait.

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, 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 Form I-129F on January 5, 2012, without sufficient supporting evidence. The director requested additional evidence and, in response, the petitioner submitted Forms G-325A, Biographic Information, for himself and the beneficiary; untranslated email correspondence from 2010

and 2011; undated photographs of himself and the beneficiary; his airline ticket stubs showing travel to and from the United States, Turkey, Qatar, and Kuwait; a copy of his U.S. passport biographical page, followed by passport pages with entry and exit stamps from Kuwait dated June 2012; and a copy of the beneficiary's Somali passport biographical page and her Kuwait residency permit.

The director denied the petition, finding that the petitioner had not submitted evidence to establish that he and the beneficiary had met during the two-year period immediately preceding the filing of the petition, as required under section 241(d) of the Act, or that he merits a waiver of the meeting requirement.

On appeal, the petitioner submits a statement to explain that he could not meet the beneficiary in person because of financial hardship due to the costs of travel to Kuwait. He also states that he had been laid off of his job with the U.S. Postal Service, then started his own computer company, while supporting his family financially in Somalia and Kenya. He was able travel to Kuwait in June 2012, after fulfilling his obligations to his family. The petitioner also states that it would have been dangerous to meet the beneficiary "publicly," because she had recently been divorced and in Kuwaiti society, "seeing or even visiting an unaccompanied female was simply out of [the] question."

Analysis

The petitioner has not submitted probative evidence that he and the beneficiary met in person between January 5, 2010, and January 5, 2012, which is the two-year period immediately preceding the filing of the petition, or evidence that he 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). The evidence reflects that the beneficiary and the petitioner met in Kuwait in June 2012, after he filed Form I-129F. While the petitioner on appeal states that he was unable to meet the beneficiary earlier because of financial reasons, he provides no corroborative evidence concerning his financial difficulties and obligations. In addition, although the petitioner asserts that it was dangerous to meet the beneficiary, an unaccompanied female, in public because of strict religious practices in Kuwait, they have since met in Kuwait; their meeting, however, occurred outside the two-year period preceding the filing of the Form I-129F. The evidence of the couple's meeting in June 2012 does not affect the determination that the record lacks evidence that the couple met during the two-year period preceding the petition's filing date.

Pursuant to 8 C.F.R. § 214.2(k)(2), the petitioner may be exempted from the requirement for a meeting with the beneficiary if it is established that compliance would:

- (1) result in extreme hardship to the petitioner; or
- (2) that compliance would violate strict and long-established customs of the 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.

Although he indicates he was experiencing financial difficulties and he also was concerned about Kuwaiti social customs before he met the beneficiary, the petitioner does not submit any evidence to support his claim that meeting the beneficiary within the two years preceding the filing of the petition would have resulted in extreme hardship or would violate long-established customs or practices. 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. Comm'r 1972)). Moreover, as previously noted, the petitioner and the beneficiary met in person. Their meeting, however, occurred after he filed Form I-129F. Thus, the petitioner's claim that social and cultural reasons prevented them from meeting within the required period has diminished merit. Difficulty arranging a meeting in a country with religious practices restricting meeting an unaccompanied female in public is not uncommon and is not extreme hardship, particularly because there is no requirement that the beneficiary be unaccompanied when meeting the petitioner. The couple's meeting a few months after filing the fiancée petition establishes that the filing of the petition was premature.

In addition, the record lacks the beneficiary's divorce decree. The beneficiary indicated on her Form G-325A, Biographic Information sheet, that her previous marriage was terminated in [REDACTED] on [REDACTED] 2010; the petitioner also refers to her divorce on appeal. Without evidence of her divorce decree, the petitioner has not established that the beneficiary is free to marry. In addition, the record 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.

Conclusion

The appeal will be dismissed for the above stated reasons. 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. As stated at 8 C.F.R. § 214.2(k)(2), the denial of this petition is without prejudice to the filing of a new petition.

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