



U.S. Citizenship
and Immigration
Services

(b)(6)



Date: JUL 10 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

INSTRUCTIONS:

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

Thank you,

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

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 sustained.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Ghana, 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 because the petitioner failed to submit all required evidence in support of his Petition for Alien Fiancé(e) (Form I-129F). *Decision of the Director*, dated August 15, 2013. On appeal, filed on August 21, 2013, and received by the AAO on January 12, 2015, the petitioner submits a statement and 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 [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 October 18, 2012, without sufficient supporting evidence. For this reason, on May 6, 2013, the petitioner was requested to submit additional evidence and, in response, he provided additional documentary evidence including letters from the petitioner and the beneficiary indicating their intent to marry, proof of the petitioner and the beneficiary having met within the two-year period prior to filing the petition, and Biographic Information (Form G-

325A) for the petitioner and the beneficiary. The acting director denied the petition, finding that the petitioner had failed to submit evidence to establish that his divorce was absolute. On appeal, the petitioner submits a Certificate of Divorce Absolute from the Commonwealth of Massachusetts, dated January 5, 2011, indicating that on [REDACTED] 2010, the Judgment of Divorce had become Absolute.

Analysis

The petitioner has now submitted all of the required evidence. The evidence establishes that the petitioner and the beneficiary were free to enter into a prospective marriage at the time of filing the petition. The record reflects that the other requirements for the nonimmigrant visa have been met.

Conclusion

The appeal will be sustained 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 met that burden.

ORDER: The appeal is sustained.