



U.S. Citizenship  
and Immigration  
Services

(b)(6)



Date:

**JUL 13 2015**

FILE:



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](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,

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 and 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 Germany, 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 Form I-129F, Petition for Alien Fiancé(e) (Form I-129F), pursuant to 8 C.F.R. § 103.2(b)(8)(ii), because the petitioner did not submit required supporting documentation.

#### *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 fiancée 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 Form I-129F on March 29, 2012. The director denied the petition, finding that the petitioner had not submitted the required evidence. On appeal, the petitioner submits a statement, an e-mail that appears to include an itinerary and a handwritten note referring to "dates of visit to see" the petitioner, a copy of two pages of a passport with a U.S. Custom and Border Protection admission stamp, photographs, and letters.

*Analysis*

The evidence does not establish that the petitioner and the beneficiary met within the two-year period before the date he filed Form I-129F. Although the passport the petitioner submits on appeal reflects an admission stamp date of March 17, 2010, he does not include a copy of the passport's biographical data page; therefore it is unclear to whom the passport belongs. Moreover, this stamped date falls outside the required two-year period before March 29, 2012, the date the petitioner filed Form I-129F. The photographs, in addition, are attached to sheets with a handwritten notation, "2011," but they are not film-dated.

Had the evidence sufficiently established that the petitioner and beneficiary met in person two years before the petitioner filed Form I-129F, the petitioner still would have needed to provide a statement from the beneficiary to establish her intent to marry the petitioner within 90 days of her admission into the United States in K-1 status. Similarly, the record lacks a statement from the petitioner to establish his intent to marry the beneficiary within 90 days of her admission into the United States in K-1 status; a passport photograph of himself and the beneficiary; and Forms G-325A, Biographic Information, for the petitioner and beneficiary. In addition, the record lacks a divorce decree for the beneficiary, to show that she is free to marry.

*Conclusion*

The appeal will be dismissed for the above stated reasons. In fiancée 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.