



U.S. Citizenship  
and Immigration  
Services

(b)(6)



DATE: **JUL 13 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) 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 that reads "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Vermont Service Center, denied the nonimmigrant visa petition. 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 of a citizen of the Dominican Republic, 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 pursuant to 8 C.F.R. § 103.2(b)(8)(ii) because the petitioner failed to submit required initial evidence. On appeal, 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 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 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 Form I-129F on April 4, 2012, without supporting evidence. The director denied the petition on October 11, 2012. On appeal, the petitioner states that he could not afford legal representation and was not aware he needed to submit supporting evidence with the application. The petitioner submits copies of his certificate of naturalization, a copy of his U.S. passport, passport-style photographs of himself and the beneficiary; numerous photographs of himself and the beneficiary, one of which appears to be film-dated 2008; and the applicant's Dominican Republic passport with various stamps showing entries into and departures from the Dominican Republic in June 2010, November 2010, June 2011, September 2011, and January 2012. The petitioner also submits money transfer receipts showing he sent the beneficiary money between 2010 and 2012.

*Analysis*

The petitioner has submitted some, but not all, of the required initial evidence. He has not submitted evidence showing that he and the beneficiary met in person between April 4, 2010 and April 4, 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). Although the petitioner's passport reveals several travel stamps to and from the Dominican Republic during the relevant period, and he submits photographs of himself with the beneficiary, the photographs are undated, and the record does not include additional evidence to establish that the petitioner and the beneficiary met during his visits to the Dominican Republic. Moreover, the record does not include evidence that the petitioner and the beneficiary were at the same location during the petitioner's visits to the Dominican Republic. The petitioner has not provided film-dated photographs,<sup>1</sup> affidavits from individuals who have personal knowledge of the relationship, or any other evidence of meeting the beneficiary in the United States, the Dominican Republic, or a third country during the requisite period. Although he submits proof of remittances to the beneficiary, this evidence is not relevant, as it does not establish that the applicant and the beneficiary met in person.

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<sup>1</sup> One photograph has a 2008 date, which is before the relevant period during which the petitioner and beneficiary were required to have met in person.

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 and two Forms G-325A, Biographic Information, for the petitioner and the beneficiary.

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 failed to 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 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.

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