



U.S. Citizenship
and Immigration
Services

(b)(6)

Date:

JUL 15 2015

FILE:

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

Thank you,

A
for

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 Cuba, as the fiancé 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 director denied the nonimmigrant visa petition because the petitioner had failed to submit required initial evidence in support of the Petition for Alien Fiancé(e) (Form I-129F). On appeal, filed on November 19, 2012, and received by the AAO on January 22, 2015, 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 [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 February 17, 2012, without supporting evidence. For this reason, the director denied the petition on November 5, 2012. On appeal, the petitioner submits a copy of her U.S. passport, a copy of a Final Judgment of Dissolution of Marriage, and photographs of the petitioner and beneficiary with handwritten notation of dates on the back and the petitioner's statement of intent to marry the beneficiary within 90 days of his admission into the United

States. No additional evidence has been submitted and the appeal will be reviewed on the basis of the evidence currently in the record.

Analysis

The petitioner has submitted some, but not all, of the required initial evidence. The record still lacks a statement from the beneficiary to establish his intent to marry the petitioner within 90 days of his admission into the United States in K-1 status.

The petitioner has also not submitted probative evidence that she and the beneficiary have met in person between February 17, 2010 and February 17, 2012, which is the two-year period immediately preceding the filing of the petition, or evidence that the petitioner 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). The record does not contain statement from the petitioner of when and how she and the beneficiary met in person during the requisite period. The photographs of the petitioner and the beneficiary with handwritten date notations on the back and no indication where the photographs were taken is not sufficient evidence to establish that the petitioner and the beneficiary met in person within the required time period. The record does not contain evidence, such as, for example, flight itineraries and boarding passes, passport admission stamps, receipts, or affidavits from third parties, to establish by a preponderance of the evidence that the petitioner and the beneficiary have met in person during the requisite period. In addition, the petitioner has not submitted the required Biographic Information (Form G-325A) for herself and the beneficiary as required pursuant to the Form I-129F instructions found at www.uscis.gov.

Conclusion

Accordingly, the appeal will be dismissed 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 not met that burden.

ORDER: The appeal is dismissed.