



U.S. Citizenship  
and Immigration  
Services

(b)(6)



Date: **JUL 15 2015**

FILE: [REDACTED]  
APPLICATION 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.

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, 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 Haiti, 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 director denied the nonimmigrant visa petition because the petitioner failed to establish that he and the beneficiary met in person within the two-year period immediately preceding the filing of the petition. On appeal, filed on July 24, 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 statutory 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:

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 or that compliance would violate strict and long-established customs of the K-1 beneficiary's foreign culture or social practice . . . Failure to establish that the petitioner and K-1 beneficiary have met within the required period or that compliance with the requirement should be waived shall result in the denial of the petition. Such denial shall be without prejudice to the filing of a new petition once the petitioner and K-1 beneficiary have met in person.

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. Generally, a director looks at whether the petitioner can demonstrate the existence of circumstances that are (1) not within the power of the petitioner to control or change, and (2) likely to last for a considerable duration or the duration cannot be determined with any degree of certainty.

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 August 26, 2011, without all the required supporting evidence. The petitioner and the beneficiary were required to have met in person between August 26, 2009 and August 26, 2011. On the Form I-129F, the petitioner indicated that he met the beneficiary within two years of the filing of the petition. The petitioner submitted a copy of his U.S. passport bearing an immigration stamp from Haiti indicating that he traveled to Haiti from April 1, 2009 to April 14, 2009. For this reason, the director issued a Request for Evidence (RFE), dated February 9, 2012, requesting the petitioner to submit evidence that he met the beneficiary in person within the requisite time period (August 26, 2009 to August 26, 2011). The petitioner submitted a response which the director found insufficient and dismissed the petition on June 28, 2012.

On appeal, the petitioner asserts that he met the beneficiary three years ago and would like to bring the beneficiary to the United States to get married. The petitioner submits additional evidence.

#### *Analysis*

The petitioner has submitted some, but not all, of the required initial evidence. The petitioner has not submitted probative evidence that he and the beneficiary have met in person between August 26, 2009 to August 26, 2011, 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 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 petitioner submitted a copy of his passport, indicating his trip to Haiti from April 1, 2009 and April 14, 2009, and a statement from witnesses indicating that they witnessed the engagement of the petitioner and the beneficiary in Haiti on April 10, 2009. This meeting, however, falls outside the two-year period immediately preceding the filing of the petition. There is no evidence in the record, such as 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 during the requisite period of August 26, 2009 to August 26, 2011.

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*NON-PRECEDENT DECISION*

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In addition, the record does not contain evidence of the petitioner and the beneficiary's bona fide intention and ability to marry within 90 days of the beneficiary's admission into the United States. The petitioner has not submitted the requisite statements from himself and from the beneficiary of their intent to marry within 90 days of the beneficiary's admission into the United States.

*Conclusion*

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.