



U.S. Citizenship
and Immigration
Services

(b)(6)



Date: **JUL 22 2015**

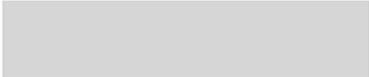
FILE: [REDACTED]

PETITION RECEIPT #: [REDACTED]

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,

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 Nigeria, 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 met the beneficiary in person during the two-year period before he filed the Petition for Alien Fiancé (Form I-129F). 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 [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 March 4, 2013, without sufficient supporting evidence. For this reason, on June 21, 2013, the director issued a request for additional evidence and in response, the petitioner submitted additional documentary evidence including a personal letter stating that his religion's rules and regulations forbid sex before marriage and that he may be tempted into sexual activity if he met the beneficiary in person. The petitioner also cited kidnapping in the part of the country where the beneficiary resides as an additional reason why he and the beneficiary have not met

in person. The document also includes a letter from the Apostolic Church stating that the church does not approve the petitioner traveling to Nigeria to meet the beneficiary in person to prevent the temptation of them engaging in premarital sex, which is prohibited by the church.

The director found the evidence insufficient and denied the petition. The director determined that the petitioner had failed to submit evidence to establish that he and the beneficiary had met during the two-year period immediately preceding the filing of the petition as required under section 241(d) of the Act. On appeal the petitioner submits a statement dated March 20, 2014, from an individual who identified herself as his aunt stating that the custom does not allow the petitioner and the beneficiary to see each other physically until the day of their marriage. The petitioner also submitted additional documentation, which was received at the Service Center on May 1, 2014. The additional documents include a copy of an itinerary showing the petitioner's trip to Nigeria in April 2014 to visit the beneficiary, copies of photographs of the petitioner and the beneficiary together in Nigeria, a copy of the biographic page of the petitioner's passport and a visa issued to the petitioner by the Nigerian government in April 2014, copies of hotel receipts from Nigeria, and copies of airline boarding pass.

Analysis

The petitioner has not submitted probative evidence that he and the beneficiary met in person between March 4, 2011 March 4, 2013, 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 evidence in the record reflects that the beneficiary and the petitioner met in April 2014, after the filing of the fiancé petition. On appeal, the petitioner initially presented evidence that was not credible to support his claim that their custom prohibited the meeting with the beneficiary prior to marriage.

The record reflects that the beneficiary and petitioner have now met, but their meeting fell outside the two-year period preceding the filing of the petition.

The evidence of the couple's meeting in April 2014 would be relevant to a new fiancé(e) petition that the petitioner may file for the beneficiary in the future, but it has no relevance to whether the couple met during the period applicable to this petition.

Pursuant to 8 C.F.R. § 214.2(k)(2), the petitioner may be exempted from the requirement for a meeting with the beneficiary if it is established that compliance would:

- (1) result in extreme hardship to the petitioner; or
- (2) that compliance would violate strict and long-established customs of the beneficiary's foreign culture or social practice, as where marriages are traditionally arranged by the parents of the contracting parties and the prospective bride and groom are prohibited from meeting subsequent to the arrangement and prior to the wedding day. In addition to establishing that the required meeting would be a violation of custom or practice, the petitioner must also establish that any and all other aspects of the traditional

arrangements have been or will be met in accordance with the custom or practice.

As previously noted, the petitioner and the beneficiary have met after filing the petition. Thus, the petitioner's claim that the couple's inability to meet within the required period was due to religious and cultural prohibition is without merit.

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. 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. The petition remains denied.