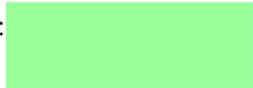




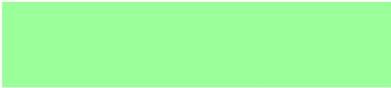
U.S. Citizenship
and Immigration
Services

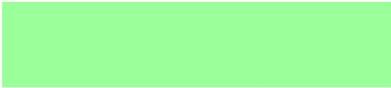
(b)(6)

Date: **MAR 12 2015** Office: CALIFORNIA SERVICE CENTER

FILE: 

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:

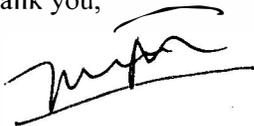
SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,



Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, California 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.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of South Korea, 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 pursuant to 8 C.F.R. § 103.2(b)(8)(ii) because the petitioner had not submitted the petitioner's passport-style photographs, evidence of the termination of the beneficiary's prior marriage, and evidence that the petitioner and the beneficiary had met in person within the two years immediately preceding the filing of the petition. *See decision of California Service Center*, August 4, 2014.

On appeal, the petitioner submits additional evidence including his passport-style pictures and a copy of a Family Register, with its translation, to reflect the beneficiary's divorce.

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 April 8, 2014 without sufficient supporting evidence. For this reason, the director issued a request for additional evidence and, in response, the petitioner submitted additional documentary evidence including the Form G-325A for the beneficiary and the petitioner, passport-style photographs of the beneficiary, a marital relation certificate relating to the beneficiary, a letter from the beneficiary expressing her intent to marry the petitioner within 90 days of admission into the United States, and a copy of the beneficiary's passport.

The director denied the petition finding that the petitioner had failed to submit the requested passport-style photographs of the petitioner, evidence of termination of the beneficiary's previous marriage, and evidence to establish that the 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 additional evidence including his passport-style pictures and a copy of a Family Register listing the beneficiary's divorce. The petitioner states that he has already demonstrated that he and the beneficiary met two years prior to the filing of the petition in March 2012.

Analysis

The petitioner has submitted some, but not all the required evidence.

The record now contains passport-style photographs of the petitioner and a family register listing the beneficiary's divorce. Nevertheless, there is no probative evidence in the record to establish that the petitioner and the beneficiary met in person between April 8, 2012 and April 8, 2014, 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 stamps in the beneficiary's passport demonstrate that she was in the United States between December 12, 2011 and March 10, 2012. The official receipt date for the instant petition was April 8, 2014, so the beneficiary's travel to the United States in 2011 and 2012 falls outside the two years immediately preceding the filing of the petition. The petitioner states that the petition was actually received on March 16, 2014. The beneficiary's passport stamps show, however, that she departed the United States on March 10, 2012. As such, the beneficiary's 2012 trip also falls outside the relevant period.

The beneficiary's passport also indicates that she traveled to the United States in 2013, but there is no evidence in the record such as photographs, affidavits, receipts or itineraries to demonstrate that the couple actually met in person during this trip.

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 already met. The petitioner does not, and could not claim, given the couple's prior meeting, that their inability to meet within the two year period immediately preceding the filing of the petition was due to strict and long-established customs. Furthermore, there is no assertion or documentation indicating that compliance with this requirement would result in extreme hardship to the petitioner.

Conclusion

The appeal will be dismissed for the above stated reasons. In application proceedings, it is the applicant's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. 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.