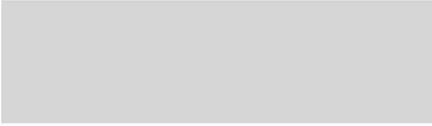


(b)(6)

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

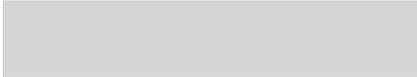


Date: **MAY 14 2015** Office: CALIFORNIA SERVICE CENTER



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.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the fiancé(e) visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The matter will be remanded to the Director for further proceedings consistent with this decision.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Cameroon, 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 based on the petitioner's failure to properly submit evidence in support of the Petition for Alien Fiancé(e) (Form I-129F), requested in a Request for Evidence, Form I-797E, Notice of Action, dated May 21, 2014. *See Decision of the Director*, dated July 14, 2014.

The record indicates that petitioner initially filed Form I-129F with U.S. Citizenship and Immigration Services (USCIS) on behalf of the beneficiary on March 12, 2012, which was subsequently approved on August 14, 2012. In November 2012, the beneficiary was interviewed at the Consular Section of the U.S. Embassy in [REDACTED] Cameroon. The U.S. consulate denied the beneficiary's visa application, and the Form I-129F was returned to USCIS with a recommendation for revocation on January 29, 2013.

On April 30, 2013, the Director issued a Notice of Decision to the petitioner advising that the period of validity for the initial Form I-129F had expired and the petition would not be revalidated. The director advised the petitioner that she may choose to file a new Form I-129F.

The petitioner filed a second Form I-129F on March 21, 2014. On May 21, 2014, the California Service Center issued a Request for Evidence (RFE), in conjunction with Form I-797E, Notice of Action. The RFE requested that the petitioner submit a Form G-325A for the beneficiary, photos for the petitioner, intent to marry from the beneficiary, evidence that the petitioner and beneficiary have met in person, a waiver for multiple fiancé filings in compliance with the International Marriage Broker Regulation Act (IMBRA), and an acknowledgement of criminal record. The Form I-797E stated that the petitioner was given until August 13, 2014 in which to submit the requested information.

Prior to the issuance of the RFE on May 21, 2014, the petitioner submitted a Form G-325A, Biographical Information, for the beneficiary. The petitioner states in her brief that when she filed the second petition, she realized that she forgot to include the Form G-325A, so she mailed the form immediately after she received the receipt notice for the Form I-129F in March. The record reflects that the applicant mailed the Form G-325A and a copy of the receipt notice on April 10, 2014. The envelope the petitioner used to mail the G-325A shows a date stamp indicating that the California Service Center received the envelope on April 14, 2014. The copy of the receipt notice mailed by the applicant includes a stamp by the California Service Center that it was received on April 14, 2014, and a stamp showing action completed/approved for filing on April 15, 2014. The receipt notice includes a second action completed/approved for filing stamp, dated June 3, 2014.

On July 14, 2014, the director issued the decision to deny the petitioner's Form I-129F, stating that the petitioner responded to the RFE on June 3, 2014 and only submitted a completed Form G-325A

for the beneficiary, and not the other evidence requested in the RFE. However, the record indicates that the Form G-325A for the beneficiary was received at the California Service Center on April 14, 2014, prior to the date the Service Center issued the RFE on May 21, 2014. Further, the record indicates that the director denied the Form I-129F on July 14, 2014, prior to the date that California Service Center established as the deadline, August 13, 2014, for the petitioner to submit the requested documentation in the RFE.

The petitioner initially filed the Form I-290B, Notice of Appeal or Motion, on August 14, 2014, and included documentation requested in the RFE. USCIS returned the Form I-290B on August 28, 2014, as the petitioner did not submit the filing fee. The petitioner stated in her brief that she is requesting a fee waiver for the appeal as the issuance of the denial was a USCIS error. The petitioner resubmitted the Form I-290B together with Form I-912, Request for a Fee Waiver, which was accepted on September 19, 2014.¹

Accordingly, the petitioner's second Form I-129F was denied prematurely on the basis that the petitioner failed to properly respond to the RFE. Therefore, we remand the matter to the director to determine whether the evidence submitted by the petitioner is sufficient to adjudicate the Form I-129F. If the decision is adverse to the petitioner, and it is determined that the Form I-290B was properly executed with the correct filing fee or an approved request for fee waiver, the matter shall be certified for review to the AAO pursuant to 8 C.F.R. § 103.4.

ORDER: The appeal is remanded for further proceedings consistent with this decision.

¹ There is no indication in the record as to whether the petitioner's Form I-917, Request for Fee Waiver, was approved.