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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

[REDACTED]

DATE: MAY 28 2015

[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

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

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 nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

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 follow the instructions on the Petition for Alien Fiancé(e) (Form I-129F) specifying required supporting documentation. On appeal, the petitioner submits the required evidence, consisting of a Biographic Information document (Form G-325A) for the beneficiary that was previously lacking from the record.

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 January 16, 2014 without sufficient supporting evidence. For this reason, the director issued a request for additional evidence (RFE) on February 18, 2014. In his May 1, 2014 response, the petitioner submitted additional documentary evidence, but failed to include the requested Forms G-325A.

The director denied the petition finding that the petitioner had failed to submit evidence specified in the Form I-129F instructions. The petitioner appealed and provided his own Form G-325A, but again failed to submit the Form G-325A for the beneficiary. We issued an RFE on January 13, 2015 granting the petitioner an additional eight (8) weeks to submit the omitted form.

In response, the petitioner submitted the beneficiary's Form G-325A previously lacking from the record, and resubmitted supporting documentation previously provided regarding his fiancée petition.

Analysis

The petitioner has now established compliance with all requirements for obtaining a nonimmigrant fiancée visa for the beneficiary. We note that the petitioner became a U.S. citizen upon his naturalization on November 21, 2011. The record contains both parties' Forms G-325A, establishes the termination of the petitioner's prior marriage, and shows that the petitioner entered Nigeria on December 29, 2011 and departed on January 24, 2012. Documentation of the petitioner's divorce shows that he is eligible to marry. A copy of his U.S. passport containing a tourist visa to Nigeria, a December 29, 2011 entry stamp granting permission to remain until January 28, 2012, and a January 24, 2012 exit stamp, together with a travel itinerary and boarding pass for one leg of the journey support the petitioner's travel claim. He submits a photograph of himself and the beneficiary, email correspondence, and phone records plus wire transfer receipts to support his claim to have met the beneficiary during this visit and remained in regular contact with her since then. Both parties have submitted the required evidence of their intent to be married within 90 days of the beneficiary's admission.

Conclusion

The appeal will be sustained 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 met that burden.

ORDER: The appeal is sustained.