



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF W-V-B-

DATE: NOV. 9, 2015

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-129F, PETITION FOR ALIEN FIANCÉ(E)

The Petitioner, a citizen of the United States, seeks to classify the Beneficiary as a fiancé(e) of a United States citizen. *See* Immigration and Nationality Act (the Act) § 101(a)(15)(K), 8 U.S.C. § 1101(a)(15)(K). The Director, Vermont Service Center denied the petition. The matter is now before us on appeal. The appeal will be sustained.

The Director denied the nonimmigrant visa petition because the Petitioner had failed to submit required initial evidence in support of the Petition for Alien Fiancé(e) (Form I-129F). On appeal, the Petitioner submits additional evidence.

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 his 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*.

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The Petitioner filed the fiancé(e) petition with USCIS on October 18, 2012, without all the required supporting initial evidence. For this reason, the Director denied the petition on April 30, 2013. On appeal, the Petitioner states that she was not aware of the documentary requirements at the time she filed the petition because she thought that the supporting documents would be submitted at the time of the K-1 visa interview. On appeal, the Petitioner submits a copy of her divorce judgment from her previous marriage and thus has demonstrated that she and the Beneficiary are free and legally able to marry upon the Beneficiary's admission into the United States. The Petitioner also submits two signed Forms G-325A, Biographic Information, for her and the Beneficiary and evidence that she and the Beneficiary have met in person within 2 years of filing the petition. On July 15, 2015, we issued a request for evidence (RFE) requesting that the Petitioner submit two passport-style photographs of the Petitioner and the Beneficiary taken within the last 30 days and two statements, one each from the Petitioner and the Beneficiary, of their mutual intent to marry within 90 days of the Beneficiary's admission into the United States. The Petitioner timely responded with the requested documents.

The evidence of record demonstrates that the Petitioner has met all of the Form I-129F evidentiary requirements and has now overcome the basis of the Director's denial.

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.

Cite as *Matter of W-V-B-*, ID# 11439 (AAO Nov. 9, 2015)