



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

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

MATTER OF D-W-R-

DATE: NOV. 23, 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 dismissed.

The Director denied the nonimmigrant visa petition because the Petitioner did not submit the required initial evidence in support of the Petition for Alien Fiancé(e). 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*.

Matter of D-W-R-

The Petitioner filed the fiancé(e) petition with USCIS on August 16, 2012, without all the required supporting initial evidence. For this reason, the Director denied the petition on March 5, 2013. The Director denied the petition because the Petitioner did not comply with regulatory requirement to support his petition as outlined in the *Instructions to the Form I-129F*.

On appeal, the Petitioner submits some but not all the required evidence. On appeal, the Petitioner submits documentation to establish that he and the Beneficiary met in person within 2 years of filing the petition, properly executed Form G-325A, Biographic Information for the Petitioner and the Beneficiary, a copy of Judgement of Divorce from the Supreme Court of New York for the Petitioner as evidence that the Petitioner is legally able to marry the Beneficiary, and two passport-style photographs of the Petitioner and the Beneficiary. On July 15, 2015, we issued a request for evidence (RFE), requesting that the Petitioner submit two statements, one each from him and the Beneficiary, of their mutual intent to marry within 90 days of the Beneficiary's admission into the United States. The Beneficiary is also required to submit evidence that she is legally able to conclude a valid marriage in the United States within 90 days of her admission into the United States. The Petitioner was granted 12 weeks to provide the requested documents. The Petitioner was also notified of the consequences of his failure to provide the requested documents. As of the date of this decision, we have not received any information or the requested documents from the Petitioner. The record reflects that the RFE was mailed to the Petitioner at his address of record. There is no indication in the record that the RFE was returned due to insufficient or inaccurate address or of a change of address from the Petitioner. The record will be deemed complete and we will adjudicate the case based on the evidence in the record.

The Petitioner has not provided all the required documents. The Petitioner has not met all of the Form I-129F evidentiary requirements. As such, the Petitioner has failed to overcome the basis of the Director's denial.

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.

ORDER: The appeal is dismissed.

Cite as *Matter of D-W-R-*, ID# 11431 (AAO Nov. 23, 2015)