



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

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

MATTER OF M-B-

DATE: OCT. 5, 2015

APPEAL OF CALIFORNIA 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 fiancée 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, California Service Center, denied the petition. The matter is now before us on appeal. The appeal will be sustained.

On January 7, 2015, the Director denied the nonimmigrant visa petition because the Petitioner did not submit required evidence. Specifically, the Petitioner did not submit a passport-style photograph of herself and the Beneficiary.

We conduct appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). We consider all pertinent evidence in the record, including new evidence submitted upon appeal.

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) indicates that if all required initial evidence is not submitted with the petition or does not demonstrate eligibility, U.S. Citizenship and Immigration

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Services 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.

The Petitioner filed the Form I-129F on October 8, 2014, without sufficient supporting evidence. For this reason, on November 5, 2014, the Director issued a request for evidence (RFE) which requested passport-style photographs of Petitioner and the Beneficiary. In response to the RFE the Petitioner submitted 4x6 photographs of herself and the Beneficiary. The Director denied the petition, finding that the submitted photographs did not comply with the listed requirements for passport-style photographs.

On appeal, the Petitioner submits passport-style photographs of herself and the Beneficiary. As such, on appeal, the Petitioner submits all of the required initial evidence lacking from the record. In view of the foregoing, we find that the Petitioner has overcome the basis for the Director's denial of the instant petition. Accordingly, the appeal will be sustained.

In fiancé(e) visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 214(d)(1) of the Act, 8 U.S.C. § 1184(d)(1); *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has been met.

ORDER: The appeal is sustained.

Cite as *Matter of M-B-*, ID# 13169 (AAO Oct. 5, 2015)