



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

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

MATTER OF C-W-

DATE: OCT. 8, 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 fiancé(e) of a United States citizen. *See* Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 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 dismissed.

On February 5, 2013, the Director denied the nonimmigrant visa petition because the Petitioner did not submit evidence that he is legally free to marry the Beneficiary, nor did he provide a Form G-325A, Biographical Information Sheet, for the Beneficiary.

We conduct appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

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

(b)(6)

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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 September 25, 2014, without sufficient supporting evidence. For this reason, on October 28, 2014, the Director issued a request for evidence (RFE) which, among other things, requested evidence of the Petitioner's divorce from his prior spouse, documentation demonstrating that the Petitioner and Beneficiary had met within the 2 years immediately preceding the filing of the petition, and a Form G-325A for himself and the Beneficiary. In response to the RFE, the Petitioner submitted an incomplete copy of his divorce decree and a Form G-325A for himself.

On February 5, 2015, the Director denied the petition finding that the Petitioner had not submitted evidence that that he is legally free to marry the Beneficiary, or a Form G-325A Biographical Information Sheet for the Beneficiary. On appeal, the Petitioner submits a complete copy of his divorce decree establishing that he is legally free to marry as he was divorced on [REDACTED] 1999. However, the Petitioner again submits a Form G-325A for himself, but not one for the Beneficiary. The record still lacks a Form G-325A for the Beneficiary.

Beyond the decision of the Director, we find that the Petitioner has not submitted probative evidence demonstrating that he and the Beneficiary had met between September 25, 2012, and September 25, 2014, as required under section 241(d) of the Act. The Petitioner does not indicate that he merits an exemption from this requirement pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2). While the record contains itineraries for the Petitioner's travel to the Philippines from March 6, 2013, to March 11, 2013, this is not probative evidence that the Petitioner physically travelled to the Philippines to meet the Beneficiary. Probative evidence can include, but is not limited to, a copy of the Petitioner's U.S. passport reflecting entry/exit stamps confirming his travel to the Philippines.

The appeal will be dismissed for the above stated reasons. 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 not been met. As stated at 8 C.F.R. § 214.2(k)(2), the denial of this petition is without prejudice to the filing of a new petition.

**ORDER:** The appeal is dismissed.

Cite as *Matter of C-W-*, ID# 13940 (AAO Oct. 8, 2015)