



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

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

MATTER OF A-A-B-

DATE: SEPT. 2, 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.

The Director denied the nonimmigrant visa petition because the Petitioner did not submit evidence that the Beneficiary intended to marry him within 90 days of her entry into the United States. *See decision of Director*, December 4, 2014.

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

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 August 18, 2014 without sufficient supporting evidence. For this reason, on October 16, 2014, the Director issued a request for evidence (RFE) for a passport-style photograph of the Petitioner and evidence that the Beneficiary intended to marry the Petitioner within 90 days of her entry into the United States. In response to the RFE, the Petitioner submitted a passport-style photograph of himself.

On December 4, 2014, the Director denied the petition finding that the Petitioner had not submitted evidence that the Beneficiary has the intent to marry the petitioner within 90 days of admission to the United States. On appeal, the Petitioner submits copies of photographs of himself with the Beneficiary, a copy of the Beneficiary's Colombian Identification Card, a personal statement, and flight confirmation emails reflecting his and the Beneficiary's travels.

The Petitioner has submitted some, but not all, of the required initial evidence. The record still lacks a statement from the Beneficiary indicating she intends to marry the Petitioner within 90 days of her admission into the United States in K-1 status.

The appeal will be dismissed for the above stated reason. 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 A-A-B-*, ID# 13832 (AAO Sept. 2, 2015)