



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

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

MATTER OF C-S-T-

DATE: FEB. 9, 2016

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* 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 nonimmigrant visa petition. The matter is now before us on appeal. The appeal will be dismissed.

The Director denied the nonimmigrant visa petition pursuant to 8 C.F.R. § 103.2(b)(8)(ii) because the Petitioner failed to submit required initial evidence, including evidence of the Beneficiary's intent to marry within 90 days of her admission into the United States and evidence that the Petitioner and Beneficiary met within the two years preceding the filing of the petition. On appeal, the Petitioner submits an additional statement and a copy of a page from his passport.

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 Petition for Alien Fiancé(e), including a description of the required initial evidence, may be found in the Instructions to the Form I-129F.

The Petitioner filed the fiancé(e) petition with USCIS on January 20, 2015, without sufficient supporting evidence. For this reason, the Director issued a request for evidence (RFE), and in response, the Petitioner submitted additional documentary evidence, including, but not limited to, photographs, receipts, copies of passport pages and an identity record.

The Director denied the petition, finding that the Petitioner had failed to submit evidence to establish that he and the Beneficiary had met as required under section 214(d) of the Act and that they had not established their intent to get married within 90 days of the Beneficiary's entry into the United States. On appeal, the Petitioner provides an additional statement and a copy of a page from his passport.

The Petitioner has not submitted probative evidence that he and the Beneficiary have met in person between January 20, 2013, and January 20, 2015, which is the two-year period immediately preceding the filing of the petition, or evidence that the Petitioner merits a favorable exercise of discretion to exempt him from such requirement pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2). The Petitioner claimed that he met the Beneficiary in July 2012 and in December 2012, when he traveled to Vietnam and remained for two weeks, and there is evidence in the record to support this assertion. On appeal, the Petitioner also stated that he planned to meet the Beneficiary in December 2015, and he subsequently submitted a copy of stamps in his passport indicating he traveled to Vietnam in December 2015. These meetings, however, all fall outside the two-year period immediately preceding the filing of the petition.

It appears that the Petitioner and Beneficiary met in December 2015, after the filing of the Form I-129F petition. Unfortunately this date falls outside the two-year period prior to the filing of this petition. While the evidence of the couple's meeting in December 2015 would be relevant to any new fiancé petition that the Petitioner may file for the Beneficiary in the future, it has no relevance to whether the couple met during the period applicable to this petition.

In response to the Director's RFE, the Petitioner submitted additional statement of intent for himself but did not submit a letter signed by the Beneficiary expressing her intent to marry the Petitioner within 90 days of admission to the United States. As such, the record does not contain sufficient evidence to establish the Beneficiary's intent to marry the Petitioner within 90 days of her entry into the United States.

The appeal will be dismissed for the above stated reasons. In visa petition proceedings, it is the Petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361. 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.

Matter of C-S-T-

ORDER: The appeal is dismissed.

Cite as *Matter of C-S-T-*, ID# 15158 (AAO Feb. 9, 2016)