U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

(b)(6)

U.S. Citizenship and Immigration Services

[redacted]

Date: OCT 0 3 2014 Office: VERMONT SERVICE CENTER FILE: [redacted]

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Petition for Alien Fiancé(e) Pursuant to § 101(a)(15)(K) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(K)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case. This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions.

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center (the director), denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Cuba, as the fiancée of a United States citizen pursuant to section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K).

The director denied the nonimmigrant visa petition because the petitioner failed to establish that he met the beneficiary in person during the two-year period before he filed the Petition for Alien Fiancé (Form I-129F). On appeal, the petitioner submits a statement and additional evidence, including copies of his and the beneficiary's passports, a letter from the Cuban Interest Section dated March 2, 2010, travel documents and itineraries for a trip to Trinidad and Tobago in 2013, and photographs.

Applicable Law

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.

Factual and Procedural History

The petitioner filed the fiancé(e) petition with USCIS on September 18, 2010 without sufficient supporting evidence. For this reason, the director issued a request for additional evidence and, in response, the petitioner submitted additional documentary evidence including letters from neighbors

attesting to the couple's relationship and letters from the beneficiary and the petitioner indicating their intent to marry.

The director denied the petition finding that the petitioner had failed to submit evidence to establish that the he and the beneficiary had met during the two-year period immediately preceding the filing of the petition as required under section 241(d) of the Act, or that meeting the beneficiary in person would violate strict and long-established customs of the beneficiary's foreign culture or social practice or result in extreme hardship to the petitioner.

On appeal, the petitioner explains that he met the beneficiary in 2004. *See* Statement of the Petitioner on Form I-290B, Notice of Appeal or Motion. He further states that the Cuban government prevented his entry into Cuba. *Id.* The petitioner explains that he arranged to meet the beneficiary in Trinidad and Tobago in 2013, but that the beneficiary's entry was denied. *Id.* The couple has since met in person in 2013, given changes in Cuban immigration policy that allowed his entry into Cuba. *Id.*

Analysis

The petitioner has established that compliance with the requirement that he and the beneficiary meet in person between September 18, 2010 and September 18, 2012 would have resulted in extreme hardship. We note that the petitioner became a U.S. citizen upon his naturalization on May 18, 2012. His travel to Cuba was prevented by the Cuban government as evidenced by the letter dated March 2010 from the Cuban Interest Section in Washington, D.C. Likewise, it would have been an extreme hardship to require the couple to meet in a third country where Cuban citizens were not free to travel during the relevant time period. The couple has since met in 2013, but only after the substantial changes in Cuban immigration policy. The petitioner merits a favorable exercise of discretion to exempt him from the meeting requirement pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2).

Conclusion

The appeal will be sustained 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 been met.

ORDER: The appeal is sustained.