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

PUBLIC COPY



U.S. Citizenship
and Immigration
Services



D6

Date:

JAN 26 2012

Office: CALIFORNIA SERVICE CENTER

FILE:



IN RE:

Petitioner:

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 in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

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

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

The director denied the petition because the petitioner had failed to establish that he and the beneficiary met in person within the two years immediately preceding the filing of the petition or that he is eligible for a waiver of this requirement.

On appeal, the petitioner submits a statement and a copy of his flight itinerary.

Applicable Law

Section 101(a)(15)(K) of the Act defines "fiancé(e)" as:

An alien who 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 entry. . . .

Section 214(d) of the Act, 8 U.S.C. § 1184(d), states in pertinent part that a fiancé(e) petition:

[s]hall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within two 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. . . .

Pursuant to 8 C.F.R. § 214.2(k)(2):

As a matter of discretion, the director may exempt the petitioner from this requirement only if it is established that compliance would result in extreme hardship to the petitioner; or that compliance would violate strict and long-established customs of the beneficiary's foreign culture or social practice

Factual and Procedural History

The petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) with U.S. Citizenship and Immigration Services (USCIS) on April 25, 2011. On the Form I-129F, the petitioner stated that he met the beneficiary when he traveled to Nigeria on December 22, 2010. On July 15, 2011, the director issued a Request for Evidence (RFE) to establish that the petitioner and the beneficiary had met in person within the two years immediately preceding the filing of the petition. The director also

requested that the petitioner submit evidence of the termination of his marriage to his first wife and original statements from the petitioner and the beneficiary to establish their mutual intent to marry within 90 days of the beneficiary's admission into the United States in K-1 status.

In response to the RFE, the petitioner submitted: photographs of the beneficiary; a letter from the beneficiary establishing her intent to marry the petitioner within 90 days of her arrival in the United States; a copy of the petitioner's divorce decree reflecting the termination of his first marriage; copies of the biographical page and a visa page from the petitioner's passport showing his admission into the United States on January 1, 2011; and copies of the petitioner's flight itinerary and boarding passes reflecting the petitioner's travel to Accra, Ghana from December 22, 2010 until January 1, 2011.

On appeal, the petitioner states that he neglected to include the second page of his flight itinerary showing his travel from Accra to Lagos, Nigeria. The petitioner submitted a copy of a flight itinerary containing a note that it refers to the "second portion of travel." The flight itinerary shows that the petitioner was scheduled to travel from Accra, Ghana to Lagos, Nigeria on December 20.

Analysis

We find no error in the director's decision and the additional evidence submitted on appeal fails to overcome this ground for denial. The petitioner submitted with the RFE a copy of a boarding pass reflecting that he traveled from Amsterdam to Accra, Ghana on December 22, 2010, which is inconsistent with his claim that he remained in Nigeria from December 22, 2010 until January 1, 2011. The copy of the visa page from the petitioner's passport, issued on December 29, 2010, does not lend any additional support to his claim of having traveled to Nigeria on December 22, 2010 because it only contains an admission stamp to the United States. The petitioner failed to submit a copy of his prior passport showing his travel to Nigeria. The flight itinerary submitted on appeal is of little probative value because it shows that the petitioner was scheduled to travel from Ghana to Nigeria on December 20; however his boarding pass shows that he did not actually arrive in Ghana until December 22, 2010. The record does not contain the petitioner's boarding pass for his flight from Ghana to Nigeria. Therefore, the petitioner has not established that he traveled to Nigeria to meet the beneficiary within the two years immediately preceding the filing of the petition, as required by section 214(d) of the Act.

Conclusion

As the petitioner has not submitted all of the required evidence on appeal, the director's decision to deny the petition shall not be disturbed. As always, the burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not met that burden.

ORDER: The appeal is dismissed. The petition remains denied.