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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



U.S. Citizenship
and Immigration
Services

D6

DATE: OFFICE: CALIFORNIA SERVICE CENTER FILE: [REDACTED]

JUN 19 2012

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

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)

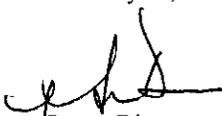
ON BEHALF OF PETITIONER:

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 AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of \$630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to 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 service center director (the director) 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 citizen of Mexico, 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 on the basis of his determination that the petitioner failed to establish that he met the beneficiary in person within the two-year period immediately preceding the filing of the petition or that he is eligible for an exemption from that requirement. On appeal, counsel submits additional testimonial evidence.

Applicable Law

A “fiancé(e)” is defined at section 101(a)(15)(K) of the Act as someone who:

subject to subsections (d) and (p) of section 214, [is] 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 statutory requirement for in-person meeting between the petitioner and the beneficiary is further explained at 8 C.F.R. § 214.2(k)(2), which states the following:

The petitioner shall establish to the satisfaction of the director that the petitioner and K-1 beneficiary have met in person within the two years immediately preceding the filing of the petition. 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 K-1 beneficiary’s foreign culture or social practice, as where marriages are traditionally arranged by the parents of the contracting parties and the prospective bride and groom are prohibited from meeting subsequent to the arrangement and prior to the wedding day. In addition to establishing that the required meeting would be a violation of custom or practice, the petitioner must also

establish that any and all other aspects of the traditional arrangements have been or will be met in accordance with the custom or practice. Failure to establish that the petitioner and K-1 beneficiary have met within the required period or that compliance with the requirement should be waived shall result in the denial of the petition. Such denial shall be without prejudice to the filing of a new petition once the petitioner and K-1 beneficiary have met in person.

Pertinent Facts and Procedural History

The petitioner filed the instant petition on July 5, 2011. The director issued a subsequent notice of intent to deny (NOID) the petition and the petitioner, through counsel, submitted a timely response. After considering the evidence of record, including the petitioner's response to the RFE, the director denied the petition on February 3, 2012.

The AAO conducts appellate review on a *de novo* basis. *See Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004). Upon review of the entire record, we find that the petitioner has failed to overcome the director's ground for denying this petition.

Analysis

As the petition was filed on July 5, 2011, the petitioner is required by section 214(d)(1) of the Act and 8 C.F.R. § 214.2(k)(2) to demonstrate that he and the beneficiary personally met each other between July 5, 2009 and the date the petition was filed. In his July 1, 2011 affidavit submitted below, the petitioner stated that although he is a citizen of the United States, he spent most of his life in Mexico, and claimed that he and the beneficiary met at a party when he was fifteen years of age and that they began dating about five years later. The petitioner also explained that during their courtship, both he and the beneficiary lived with their families. The petitioner asserted that he moved to the United States on March 15, 2010 due to more favorable employment prospects, and claimed that he last saw the beneficiary the day prior to his move.

To support his claim that his last meeting with the beneficiary took place within the two-year period immediately preceding the filing of this petition, the petitioner submitted below his own testimony; a letter from the beneficiary; photographs of the couple together taken in various settings; and a copy of a page from his passport displaying an entry stamp into the United States dated March 15, 2010. The director found this evidence insufficient and denied the petition on February 3, 2012, stating that the entry stamp in his passport did not prove he had visited the beneficiary during his trip to Mexico; that the photographs did not demonstrate that the events depicted therein took place within the relevant two-year period of time preceding the filing of the petition; and that the remaining evidence of record was not sufficiently persuasive to establish that he met the beneficiary during that period of time.

On appeal, counsel contends that the director erred in denying the petition. Counsel asserts on the Form I-290B that the petitioner and beneficiary have no evidence to present regarding their respective living situations in Mexico because they were young and living with their parents, and that "[c]redible testimony with documentary evidence should be sufficient" to establish the

petitioner's claim. Counsel makes similar claims in his March 27, 2012 memorandum submitted on appeal, and notes that the director did not find the petitioner's testimony lacking in credibility. Counsel also submits copies of the photographs submitted below updated with dates; a brief letter from the petitioner's mother; a letter from the beneficiary's mother; and a letter from an acquaintance. Upon review, we find that the director properly denied this petition.

The relevant documentary evidence submitted below and on appeal does not establish that the petitioner and beneficiary met each other during the relevant two-year period of time preceding the filing of the petition. The passport page displaying an entry stamp into the United States on March 15, 2010 does not identify the country from which he traveled, and does not establish that the petitioner met the beneficiary between July 5, 2009 and the date he filed the instant petition. Although the record now contains 12 photographs that were allegedly taken during the relevant two-year timeframe, they do not demonstrate that the in-person meetings that allegedly occurred during this time in fact took place, because the individuals and events depicted in these photographs are not described in probative detail.

Nor does the relevant testimonial evidence submitted below and on appeal establish that the petitioner and beneficiary met each other during the relevant two-year timeframe. As noted, counsel asserts on appeal that the couple has no evidence documenting their residence in Mexico because the petitioner and beneficiary both lived with their parents. While counsel's assertion is noted, neither the petitioner's mother nor the beneficiary's mother support counsel's claim in their letters submitted on appeal, and simply going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998)(citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r 1972)). Counsel states correctly on appeal that the director made no determination that the petitioner's testimony lacks credibility. We do not question the petitioner's credibility, either. However, the fact that a petitioner's testimony is credible does not necessarily mean that it will satisfy that petitioner's burden of proof, and such is the case here. The petitioner's testimony submitted below and on appeal lacks detailed, probative information regarding the couple's meetings that took place during the relevant period of time that could compensate for the lack of documentary evidence. It is vague, generalized, and lacks detail. The testimony from the beneficiary and her mother, the petitioner's mother, and the family acquaintance is similarly vague and lacking in probative detail. Moreover, the petitioner's affiants speak primarily to the bona fides of the relationship, which we do not question, rather than to the issue on appeal: whether the petitioner and beneficiary met each other during the two-year period of time preceding the filing of the petition.

When considered in the aggregate, the evidence submitted below and on appeal fails to establish that the petitioner and beneficiary personally met each other between July 5, 2009 and the date this petition was filed, as required by section 214(d)(1) of the Act and 8 C.F.R. § 214.2(k)(2).

Conclusion

On appeal, the petitioner has failed to overcome the director's ground for denying the petition and has not established that he met the beneficiary in person within the two-year period of time immediately

preceding the filing of the petition. Accordingly, the beneficiary is ineligible for nonimmigrant classification under section 101(a)(15)(K)(i) of the Act and this petition must remain denied.

In these proceedings, the petitioner bears the burden of proof to establish the beneficiary's eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). He has not met his burden and the appeal will be dismissed.

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