

(b)(6)



U.S. Citizenship
and Immigration
Services

Date: APR 03 2013

Office: VERMONT SERVICE CENTER

FILE: [REDACTED]

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:

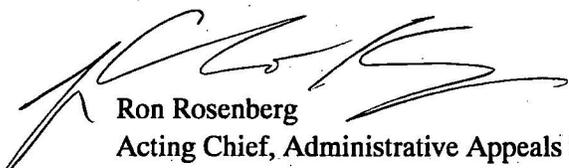
SELF-REPRESENTED

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 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 with the field office or service center that originally decided your case by filing a 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,


Ron Rosenberg

Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont 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 a citizen of Ethiopia, as the fiancée 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 nonimmigrant visa petition pursuant to 8 C.F.R. § 103.2(b)(8)(ii) because the petitioner failed to submit required initial evidence. On appeal, the petitioner provides additional evidence.

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 Petition for Alien Fiancé(e) (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 fiancée petition with USCIS on December 22, 2011 without any supporting evidence. For this reason, the director denied the petition on May 25, 2012. On appeal, the petitioner provides the following: the biographic page from his U.S. passport; two (2) passport-style color photographs of the petitioner and the beneficiary; a Form G-325A, Biographic Information, for the petitioner and the beneficiary; flight itineraries and admission stamps from the visa pages of the petitioner's passport as evidence that he has met the beneficiary in person between December 22, 2009

and December 22, 2011, which is the two-year period immediately preceding the filing of the petition; photographs of the petitioner and the beneficiary; the petitioner's divorce decree as evidence of the termination of his prior marriage; 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.

Analysis

The petitioner has submitted most, but not all, of the required initial evidence. The petitioner submitted a court document from Ethiopia, which he indicates is the beneficiary's divorce decree. He stated on the Form I-290B (appeal notice) that he would provide a translation of the document within one month. Although it has been over eight months since he filed the appeal notice, the AAO has not received a certified English translation of the document. Without a certified translation, the Ethiopian decree is insufficient to establish the petitioner's divorce from his prior spouse and his ability to enter into a valid marriage with the beneficiary. See 8 C.F.R. § 103.2(b)(3) (any document in a foreign language must be accompanied by a full English translation certified as complete and accurate).

Conclusion

As the petitioner still has not submitted all of the required initial 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.