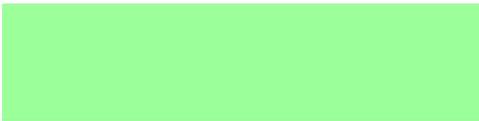




U.S. Citizenship
and Immigration
Services

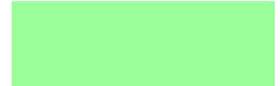
(b)(6)



Date: AUG 07 2013

Office: CALIFORNIA SERVICE CENTER

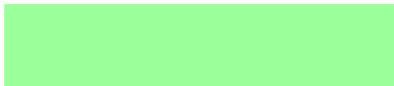
FILE:



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:

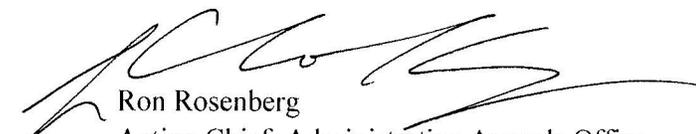
SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (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. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

Thank you,



Ron Rosenberg
Acting 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 of Jamaica and a citizen of Canada, 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 submits a statement and additional evidence.

Applicable Law

Section 101(a)(15)(K) of the Act provides nonimmigrant classification to, in pertinent part:

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.

The statutory requirement of an in-person meeting between the petitioner and the beneficiary is further explained at 8 C.F.R. § 214.2(k)(2), which states, in pertinent part:

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

The regulation does not define what may constitute extreme hardship to the petitioner. Therefore, each claim of extreme hardship must be judged on a case-by-case basis taking into account the totality of the petitioner's circumstances.

Factual and Procedural History

The petitioner filed the fiancé(e) petition with USCIS on July 26, 2012 without any supporting evidence. For this reason, the director denied the petition on April 24, 2013. On appeal, the petitioner provided a statement from himself and the beneficiary in which they assert that they first met while they were both working at a hospital in January 2005. They state that they have been in a relationship since this time and have traveled together during the requisite period to Texas, Mexico and the Dominican Republic. The petitioner also provided the following relevant evidence: a joint statement from the petitioner and the beneficiary to establish their mutual intent to marry; a copy of the biographical page of the petitioner's U.S. passport; a copy of the petitioner's U.S. birth certificate; divorce decrees from the petitioner's prior three marriages; the beneficiary's divorce decree from her prior marriage; the beneficiary's birth certificate; a Form G-325A, Biographic Information, for the petitioner and the beneficiary; and two (2) passport-style color photographs of the petitioner and the beneficiary.

Analysis

The petitioner has submitted some, but not all, of the required initial evidence. The record still lacks evidence that the petitioner and the beneficiary have met in person between July 26, 2010 and July 26, 2012, 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). On their respective Form G-325As, the petitioner lists his place of residence as Sault Sainte Marie, Michigan and the beneficiary lists her place of residence as the neighboring city across the border between the United States and Canada in Sault Sainte Marie, Ontario, Canada. The petitioner, however, has not provided receipts, film-dated photographs, affidavits from individuals who have personal knowledge of the relationship, or any other evidence of meeting the beneficiary in the United States, Canada or a third country during the requisite period. The petitioner provided the names and telephone numbers of individuals who he stated could attest to his relationship with the beneficiary, but he submitted no affidavits or letters from any of these individuals. The petitioner also asserted that photographs of himself and the beneficiary taken during the requisite period had been posted on the social networking website, Facebook, but the petitioner did not submit the actual photographs or printouts from Facebook. The petitioner bears the burden of proof in these proceedings.

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. In fiancée 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 not been met.

ORDER: The appeal is dismissed.