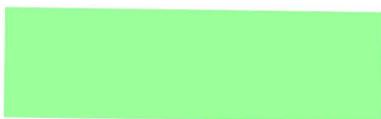


(b)(6)

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



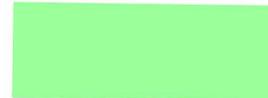
U.S. Citizenship
and Immigration
Services



Date: DEC 20 2013

Office: CALIFORNIA SERVICE CENTER

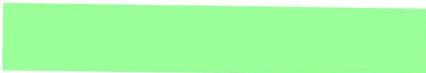
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IN RE:

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.

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, California 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 and the petition will be approved.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of the Philippines, 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 submit evidence that he was legally free to enter into marriage with the beneficiary at the time the petition was filed. On appeal, the petitioner submits 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 his discretion may waive the requirement that the parties have previously met in person. . . .

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 March 19, 2013. On July 2, 2013, the director issued a request for evidence (RFE) to the petitioner, among other things, requesting him to provide additional evidence of the termination of the petitioner's prior marriage. In response to the RFE, the petitioner submitted an Order Setting Domestic Case Schedule from the Superior Court of the State of Washington for the County of King. On September 18, 2013, the director determined that the petitioner failed to submit the requested divorce decree and denied the petition, concluding that the petitioner failed to establish that he was free to enter into a valid marriage at the time the Form I-129F was filed.

Analysis

The petitioner has submitted on appeal all of the required initial evidence including: proof of the petitioner's U.S. citizenship; a Form G-325A, Biographic Information, for the petitioner and the

beneficiary; two (2) passport-style color photographs of the petitioner and the beneficiary; 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; the petitioner's U.S. passport with entry and exit stamps from the Philippines dated August 30, 2012 and September 12, 2012; photographs of the petitioner with the beneficiary as evidence that the petitioner and the beneficiary have met in person between March 19, 2011 and March 19, 2013, which is the two-year period immediately preceding the filing of the petition; and evidence that the petitioner was legally free to marry the beneficiary at the time of filing the Form I-129F.

Conclusion

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 been met.

ORDER: The appeal is sustained. The petition is approved.