



U.S. Citizenship
and Immigration
Services

(b)(6)

[Redacted]

Date: **JUN 29 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 of Afghanistan and citizen of Germany, 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

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 fiancé(e) petition with USCIS on February 10, 2012 without any supporting evidence. For this reason, the director denied the petition on October 25, 2012. On appeal, the petitioner asserts that he became engaged to his fiancée in Germany in 2008. The petitioner states that he did not submit a fiancée petition at that time because he was a permanent resident and was waiting to naturalize and become a U.S. citizen. The petitioner provides the following relevant evidence: a photocopy of the petitioner's naturalization certificate; three (3) passport-style color photographs of the

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petitioner; a Form G-325A, Biographic Information, for the petitioner and the beneficiary; and a photograph of the petitioner with an unidentified woman.

Analysis

The petitioner has submitted some, but not all, of the required initial evidence. The record still lacks the following documentation: two (2) passport-style color photograph of the beneficiary; evidence that the petitioner and the beneficiary have met in person between February 10, 2010 and February 10, 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); 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.

On the From I-129F, the petitioner stated that the beneficiary has met and seen him within the two-year period immediately preceding the filing of the petition. However, he asserts on appeal that he last met the beneficiary in 2008 during their engagement ceremony in Germany. Although the petitioner submitted a photograph of himself with a woman and a handwritten notation on the back of the photograph that it was taken in Germany in 2010, the photograph is not film-dated and the petitioner has not identified the woman in the photograph as the beneficiary. The petitioner has not submitted admission stamps from his passport, airline ticket stubs and receipts, or any other evidence of meeting the beneficiary within the requisite period.

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; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). Here, the petitioner has not met that burden.

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