

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

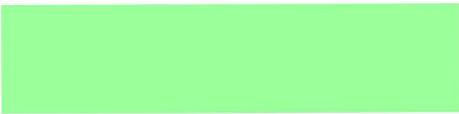
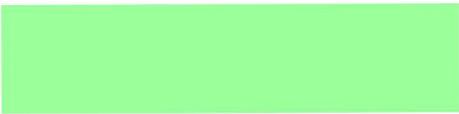


U.S. Citizenship
and Immigration
Services



Date: Office: CALIFORNIA SERVICE CENTER FILE: 

MAY 20 2013

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:

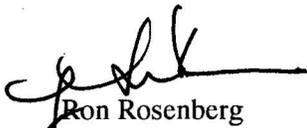
SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office 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, 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 and citizen of Poland, as the fiancé 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 because the petitioner failed to establish that she and the beneficiary met in person during the two-year period immediately preceding the filing of the Petition for Alien Fiancé(e) (Form I-129F). 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 [her] discretion may waive the requirement that the parties have previously met in person. . . .

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:

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.

Factual and Procedural History

The petitioner filed the fiancé petition with U.S. Citizenship and Immigration Services (USCIS) on December 14, 2011 without any supporting evidence. The director subsequently issued two Requests for Evidence (RFEs) for the petitioner to submit the required initial evidence. The petitioner submitted most of the required initial evidence, but failed to demonstrate that she met the beneficiary within the requisite period. For this reason, the director denied the petition on August 2, 2012. On appeal, the petitioner provides a letter from Lufthansa German Airlines and a copy of the biographic page of the Beneficiary's passport.

Analysis

The petitioner filed the fiancé petition with USCIS on December 14, 2011. Therefore, the petitioner and the beneficiary were required to have met in person between December 14, 2009 and December 14, 2011. On the Form I-129F, the petitioner stated that she met the beneficiary in Spain in 2011. She submitted copies of the visa passages from her passport, which contain admission stamps reflecting that she entered Madrid, Spain on September 26, 2011 and she departed from Madrid on October 1, 2011. She also provided the beneficiary's identity card from Poland and a print-out of the beneficiary's flight itinerary for his travel to Madrid, Spain on September 26, 2011.

The director determined that since the flight itinerary was submitted as a redacted email and is dated January 1, 1970, it does not demonstrate that an airline ticket actually was issued for the beneficiary's travel to Spain. The director noted that the petitioner should have provided a copy of the beneficiary's passport showing his visa to Spain as primary evidence of his travel. The director determined that the petitioner failed to establish by a preponderance of the evidence that she has met the beneficiary within the two-year period immediately preceding the filing of the petition, or that she merits a favorable exercise of discretion to exempt her 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 appeal, the petitioner asserts that there is no stamp in the beneficiary's passport for his travel to Spain because Poland and Spain are in Europe and admission stamps are not issued for travel within Europe. The petitioner states that she was able to obtain information from Lufthansa Airlines regarding the beneficiary's flight to Madrid, Spain. The petitioner submits a copy of the biographic page of the beneficiary's passport and a letter written in German from Lufthansa German Airlines. The petitioner, however, failed to provide a certified English translation of the letter. Because the petitioner failed to submit a certified translation of the letter, the AAO cannot determine whether the evidence supports the petitioner's claims. See 8 C.F.R. § 103.2(b)(3). Accordingly, the evidence is not probative and will not be accorded any weight in this proceeding. The petitioner has therefore failed to establish by a preponderance of the evidence that she has met the beneficiary within the two-year period immediately preceding the filing of the petition.

Conclusion

The petitioner has not established that the statutorily required personal meeting between herself and the beneficiary occurred during the required time period, or that she is exempt from such a requirement. Consequently, the beneficiary may not benefit from the instant petition and it must remain denied and the appeal is dismissed.

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.