

(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

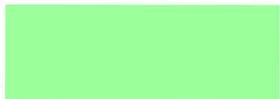


U.S. Citizenship
and Immigration
Services



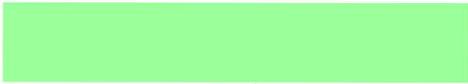
Date: **NOV 06 2013**

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)

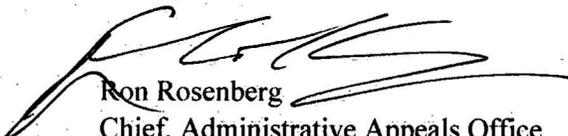
ON BEHALF OF PETITIONER:

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.

Thank you,


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. 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 Venezuela, as the fiancé 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 all of the required 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. . . .

Factual and Procedural History

The petitioner filed the Form I-129F fiancé(e) petition with U.S. Citizenship and Immigration Services (USCIS) on November 14, 2012. Therefore, the petitioner and the beneficiary were required to have met in person between November 14, 2010 and November 14, 2012.

When she filed the petition, the petitioner indicated that she and the beneficiary resided together in Barcelona, Spain. On May 13, 2013, the director issued a request for evidence (RFE) of, among other things, original letters of intent to marry within 90 days of the beneficiary's admission into the United States in K-1 status from both the petitioner and beneficiary. In response to the RFE, the petitioner submitted a Declaration of Stable Partnership. On June 14, 2013, the director denied the Form I-129F for failure to submit the letters of intent to marry. On appeal, the petitioner submits a joint affidavit attesting to their mutual intention to get married within 90 days of the beneficiary's admission into the United States in K-1 status from the petitioner.

Analysis

The petitioner has submitted all of the required evidence on appeal. The sworn affidavit states that the petitioner and the beneficiary attested before a notary that they intend to marry in the United States within the 90-day requisite period. The record indicates that the petitioner and the beneficiary have resided together since 2004 in a committed relationship which they intend to solemnize in marriage upon the beneficiary's admission to the United States and that there are no legal impediments to their marriage. Accordingly, the petitioner has established the beneficiary's eligibility for fiancé classification under sections 101(a)(15)(K)(i) and 214(d)(1) of the Act.

Conclusion

In fiancé 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. sec 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.