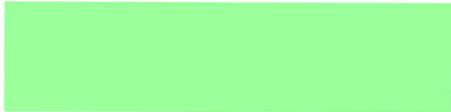




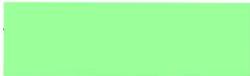
U.S. Citizenship
and Immigration
Services

(b)(6)

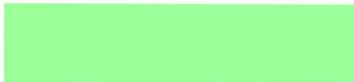


Date: **OCT 07 2013**

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)

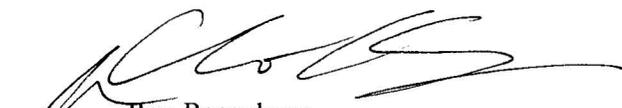
ON BEHALF OF PETITIONER:

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.

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 The decision of the director will be withdrawn and the petition will be remanded to the director for further action.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and a citizen of Laos, 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 pursuant to 8 C.F.R. § 103.2(b)(8)(ii) because the petitioner failed to submit 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. . . .

Pursuant to 8 C.F.R. § 214.2(k)(2):

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 parties 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 Petition for Alien Fiancé(e) (Form I-129F) with U.S. Citizenship and Immigration Services (USCIS) on July 24, 2012 without all of the required documents. The director denied the petition on May 15, 2013 for failure to submit the Form G-325A, Biographic Information, for the beneficiary. On appeal, the petitioner provides a statement on the Form I-290B, Notice of Appeal or Motion and a Form G-325A, Biographic Information, for the beneficiary.

Analysis

Although the petitioner submitted the required Form G-325A, Biographic Information, for the beneficiary, the Form I-129F is not approvable because the record still lacks 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. Because the director did not address this deficiency in her decision, the matter must be remanded to the director for further action such as issuance of a Request for Evidence (RFE) to provide the petitioner with the opportunity to address the remaining deficiency of record.

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. sec 1184(d)(1); *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met. The petitioner has overcome the director's ground for denial. However, the beneficiary remains ineligible to receive the immigration benefit sought on other grounds. Accordingly, the director's decision will be withdrawn and the matter will be remanded to the director for further action in accordance with the preceding discussion. The director shall then issue a new decision, which shall be certified to the AAO if adverse to the petitioner.

ORDER: The May 15, 2013 decision of the California Service Center is withdrawn. The petition is remanded to that office for further action and issuance of a new decision. If the new decision is adverse to the petitioner, it shall be certified to the Administrative Appeals Office for review.