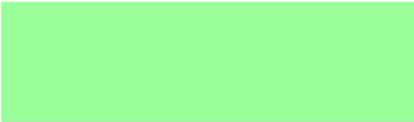




U.S. Citizenship
and Immigration
Services

(b)(6)



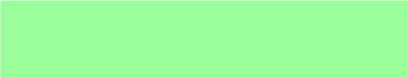
Date: **SEP 23 2013**

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)

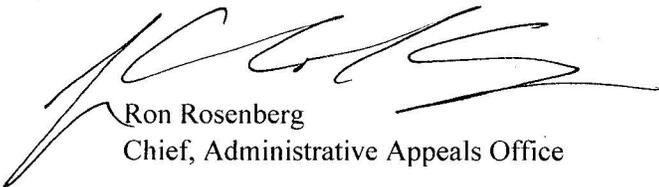
ON BEHALF OF PETITIONER:

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, denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

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 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 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.

Analysis

The petitioner filed the fiancée petition with USCIS on August 2, 2012 without any supporting evidence. For this reason, the director denied the petition on April 23, 2013.

On appeal, the petitioner initially provided a statement in which he asserted that he first met the beneficiary in February 2008 during a vacation in the Philippines. He stated that he later returned to the Philippines to reside with the beneficiary and they had a child together on October 10, 2011. The petitioner also provided: evidence of his U.S. citizenship, including the biographical page from his U.S.

passport; photographs of himself with the beneficiary and their daughter; a Form G-325A, Biographic Information, for the petitioner and the beneficiary; two (2) passport-style color photographs of the petitioner and the beneficiary; the petitioner's daughter's birth certificate; the death certificate for the beneficiary's first spouse, E-S-¹; and the petitioner's stepson's birth certificate. The petitioner's daughter's birth certificate reflects that the beneficiary gave birth to their child in the Philippines on October 10, 2011. Therefore, the petitioner established that he met the beneficiary between August 2, 2010 and August 2, 2012, which is the two-year period immediately preceding the filing of the petition.

On August 9, 2013, the AAO issued a Request for Evidence (RFE) to the petitioner for 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. To establish that the petitioner was legally able to marry the beneficiary, the AAO also requested the death certificate for the petitioner's first wife, N-D-; and the divorce decree from the petitioner's marriage to his second wife, J-D-.² The petitioner timely responded to the RFE with the requested initial evidence.

Conclusion

Now that the petitioner has met all of the evidentiary requirements, the appeal will be sustained and the petition will be approved. 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 now been met.

ORDER: The appeal is sustained.

¹ Name withheld to protect the individual's identity.

² Names withheld to protect the individuals' identities.