



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:

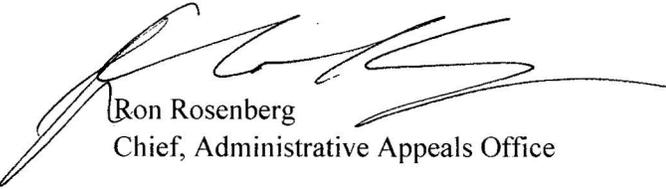
SELF-REPRESENTED

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. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements.** See also 8 C.F.R. § 103.5. **Do not file a motion directly with the AAO.**

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 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 Mexico, 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 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 August 3, 2012 without any supporting evidence. For this reason, the director denied the petition. On appeal, the petitioner provides: evidence of the petitioner's U.S. citizenship; a Form G-325A, Biographic Information, for the petitioner and the beneficiary; one (1) passport-style color photograph of the petitioner and the beneficiary; an original statement from the petitioner to establish his intent to marry the beneficiary within 90 days of the beneficiary's admission into the United States in K-1 status; the petitioner's divorce decree from his

first marriage; photographs of the petitioner with the beneficiary; and three Spanish language documents.

Analysis

The petitioner has submitted some, but not all, of the required initial evidence. The record still lacks the following documentation: the beneficiary's divorce decree from her first marriage; one (1) additional passport-style color photograph of the petitioner and the beneficiary; and an original statement from the beneficiary to establish her intent to marry the petitioner within 90 days of her admission into the United States in K-1 status. Although the petitioner submitted a letter from the beneficiary and a divorce record from Michoacan, Mexico, these documents are in Spanish and were submitted without the English language translation required by 8 C.F.R. § 103.2(b)(3).

The petitioner has also not submitted probative evidence that he and the beneficiary have met in person between August 3, 2010 and August 3, 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). The petitioner asserts on appeal that he met the beneficiary in mid-June at a graduation celebration in Mexico. He submitted one photograph of himself with the beneficiary that contains the date July 13, 2012. However, he failed to submit any other evidence, such as, for example, flight itineraries and boarding passes, passport admission stamps, receipts, or affidavits from third parties, to establish by a preponderance of the evidence that he and the beneficiary have met during the requisite period.

The petitioner asserts further on appeal that he met the beneficiary a second time in Mexico in March 2013. He submits as evidence of this travel: four additional photographs of himself and the beneficiary that are dated March 2013 through April 2013; a boarding pass for his departure from Guadalajara, Mexico dated April 10; and a flight itinerary written in Spanish without a corresponding certified English translation as required by 8 C.F.R. § 103.2(b)(3). While the evidence of the couple's meeting in March 2013 would be relevant to any new fiancée petition that the petitioner may file for the beneficiary in the future, it has no relevance to whether the couple met during the period applicable to this petition, which was between August 3, 2010 and August 3, 2012.

Conclusion

The appeal will be dismissed for the above stated reasons. In fiancé(e) 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 not been met. As stated at 8 C.F.R. § 214.2(k)(2), the denial of this petition is without prejudice to the filing of a new petition.

ORDER: The appeal is dismissed.