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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

Date: **APR 24 2014** Office: CALIFORNIA SERVICE CENTER FILE: [REDACTED]

IN RE: Petitioner: [REDACTED]
Beneficiary: [REDACTED]

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 (the director), 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 Laos, 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 documentation.

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:

[s]hall 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

On January 5, 2006, the President signed the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005).¹ Title VII of VAWA 2005 is entitled "Protection of Battered and Trafficked Immigrants," and contains Subtitle D, "International Marriage Broker Regulation" (IMBRA). IMBRA provides that a petitioner for a nonimmigrant visa for an alien fiancé(e) (K-1) or alien spouse (K-3) must submit with his or her Form I-129F information on any criminal convictions for any of the following "specified crimes":

- Domestic violence, sexual assault, child abuse and neglect, dating violence, elder abuse, and stalking.
- Homicide, murder, manslaughter, rape, abusive sexual contact, sexual exploitation, incest, torture, trafficking, peonage, holding hostage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, or an attempt to commit any of these crimes.

¹ Pub. L. 109-162, 119 Stat. 2960 (2006), 8 U.S.C. § 1375a.

- Crimes relating to a controlled substance or alcohol where the petitioner has been convicted on at least three occasions and where such crimes did not arise from a single act.

If the petitioner indicates that he or she has been convicted by a court or by a military tribunal for one of the specified crimes or U.S. Citizenship and Immigration Services (USCIS) ascertains through relevant background checks that the petitioner has been convicted, the petitioner will be required to submit certified copies of all court and police records showing the charges and dispositions for every conviction. This is required even if the petitioner's records were sealed or otherwise cleared. The provisions of IMBRA apply to all petitions filed on or after March 6, 2006.

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 U.S. Citizenship and Immigration Services on August 28, 2013. Therefore, the petitioner and the beneficiary were required to have met in person between August 28, 2011 and August 28, 2013. The director denied the nonimmigrant visa petition because the petitioner indicated that he was convicted of one of the specified crimes, and failed to submit the required documentation as required under IMBRA.

The record contains: evidence of the petitioner's U.S. citizenship; photographs of the petitioner and the beneficiary together; a page of the petitioner's U.S. passport with a Laos entry stamp dated February 1, 2012 and Laos departure stamp dated March 11, 2012; an engagement certificate confirming the engagement ceremony on February 29, 2012 between the petitioner and the beneficiary; a dissolution decree for the petitioner's first marriage; an English language translation of a certificate of divorce from the President of the People's Supreme Court for the beneficiary's first marriage; a certificate of divorce from the Head of City Office for the beneficiary's first marriage; original statements from the petitioner and the beneficiary of their mutual intent to marry within 90 days of the beneficiary's admission into the United States in K-1 status; and a Form G-325A, Biographic Information, for the petitioner and the beneficiary.

On appeal, the petitioner submits a copy of his criminal history from the Department of Public Safety of the Bureau of Criminal Apprehension of the Minnesota Justice Information Services in St. Paul, Minnesota.

Analysis

The petitioner indicates that he was convicted for one of the specified crimes. He has submitted his criminal history that shows that he was convicted for terroristic threats-reckless disregard for risk in

violation of section 609.713.1 of the Minnesota Statutes on [REDACTED]. However, the petitioner has not submitted all of the required documents. The petitioner has not submitted certified copies of all court and police records, one passport-style color photograph of the petitioner and one of the beneficiary, evidence of the termination of the beneficiary's first marriage, and evidence of the couple's meeting within the requisite period. Further, the petitioner submitted an English language translation of the certificate of divorce from the President of the People's Supreme Court, but failed to provide a copy of the foreign language document, and a translator's certification that the English language translation of the certificate of divorce is complete and accurate, and that he or she is competent to translate from the foreign language into English. The divorce certificate from the Head of City Office lacks a certified English translation, and the information in the divorce certificate is incomplete and inconsistent with the information contained in the divorce certificate from the Supreme Court. The engagement certificate also lacks a translator's certification.

Conclusion

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, USCIS may, in its discretion, deny the petition for lack of initial evidence. The petitioner failed to submit the statutorily required documentation on appeal. Consequently, the beneficiary may not benefit from the instant petition and it must remain denied. The appeal is dismissed. The denial of this petition is without prejudice to the filing of a new petition. 8 C.F.R. § 214.2(k)(2).

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.

ORDER: The appeal is dismissed.

² Case number [REDACTED]