

(b)(6)



U.S. Citizenship
and Immigration
Services

[REDACTED]

Date: **AUG 01 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:

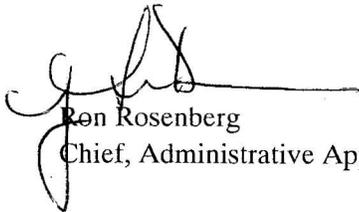
SELF-REPRESENTED

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.

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 petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Cambodia, 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 because the petitioner failed to establish that he and the beneficiary met in person during the two-year period immediately preceding the filing of the petition or demonstrate that he is eligible for a waiver of the meeting requirement.

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 [his] discretion may waive the requirement that the parties have previously met in person. . . .

Factual and Procedural History

The petitioner filed the fiancé(e) petition with U.S. Citizenship and Immigration Services (USCIS) on August 16, 2013. The director issued a Request for Evidence (RFE) that the petitioner and beneficiary met in person during the requisite two-year period (between August 16, 2011 and August 16, 2013) or that he is eligible for a waiver of the meeting requirement. The director denied the petition because the petitioner failed to establish that he met the beneficiary during the requisite two-year period or was eligible for a waiver of the meeting requirement.

On appeal, the petitioner submits letters from his friends, [REDACTED] but none of the petitioner's friends discuss any particular occasion during the requisite period from August 16, 2011 to August 16, 2013; the birth certificate of the petitioner's son shows that he was born to the couple before the two-year period; a facsimile of a letter from the petitioner and five pages of payroll records that printed completely black and are illegible; an undated letter from the petitioner and a

flash drive and copies of pages from the petitioner's passport and from his fiancée's passport; and a facsimile of an undated letter from the petitioner and a November 23, 2013 letter from [REDACTED] a counselor with [REDACTED] in Cambodia.

In response to the AAO's RFE, dated May 22, 2014, the petitioner submitted letters from himself; payroll information from [REDACTED] for the period March 2009 to June 2013; copies of the petitioner's U.S. passport pages that show Cambodia entry stamps dated September 30, 2011, April 20, 2012, May 27, 2012, August 11, 2012, January 26, 2013; and departure stamps from Cambodia dated April 19, 2012, May 25, 2012, August 8, 2012, September 8, 2012, January 8, 2013, July 6, 2013; a statement from the petitioner's fiancée of her intent to marry the petitioner within ninety days of her admission into the United States in K-1 status; and a letter and his friend, [REDACTED] listing the dates (February 2012, February 2013, March 2013) that he saw the petitioner and his fiancée together in [REDACTED]

Analysis

The record now demonstrates by a preponderance of the evidence that the petitioner and the beneficiary have met in person within the two-year period immediately preceding the filing of the petition, and intend to conclude a valid marriage within 90 days of the beneficiary's admission into the United States in K-1 status.

Conclusion

The burden of proof in fiancé(e) visa petition proceedings rests solely with the petitioner. 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 been met. The appeal will be sustained and the petition will be approved.

ORDER: The appeal is sustained.