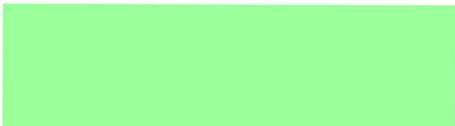




U.S. Citizenship  
and Immigration  
Services

(b)(6)



Date: **DEC 16 2014**

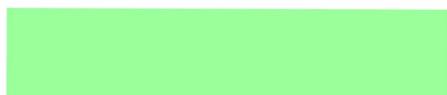
Office: TEXAS SERVICE CENTER

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, Texas Service Center (the director), denied the nonimmigrant visa petition, and the matter is now before the Administrative Appeals Office (AAO) on appeal. We issued a request for evidence (RFE), to which the petitioner failed to respond. 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 Russia, 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 because the petitioner failed to establish that the beneficiary's previous marriage was legally terminated.

*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 April 5, 2013 without sufficient supporting evidence. For this reason, the director issued a request for additional evidence and, in response, the petitioner submitted a letter from the beneficiary expressing her intent to marry the petitioner.

The director denied the petition finding that the petitioner had failed to submit evidence of the legal termination of the beneficiary's previous marriage.

On appeal, the petitioner submitted a letter from the beneficiary stating her intent to marry the petitioner, copies of her name change and divorce certificates, and their English translations. Noting that the record still lacked evidence that the petitioner and the beneficiary met in person within the two-year period prior to the filing of the Form I-129F, we issued a request for evidence on September 24, 2014, affording the petitioner eight weeks to respond. We also requested that the petitioner submit a letter signed by him expressing his intent to marry the beneficiary within 90 days of her admission into the United States. The time to respond to the request for evidence has elapsed, but we have received no additional evidence or response from the petitioner.

*Analysis*

The petitioner has failed to submit the requested evidence to establish that he met the beneficiary in person within the two-year period prior to the filing of the Form I-129F, or that he has the intent to marry the beneficiary within 90 days of her admission into the United States. We advised the petitioner that failure to respond to the RFE by the required date, may result in dismissal of his appeal pursuant to the regulation at 8 C.F.R. § 103.2(b)(13).

Although the petitioner states that he met the beneficiary in Canada in 2012, there is no evidence in the record to demonstrate that the petitioner traveled to Canada during the same period as the beneficiary. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm'r 1972)). The petitioner also has not submitted a letter signed by him expressing his intent to marry the beneficiary within 90 days of her admission into the United States. The appeal will therefore be dismissed.

*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. The petition remains denied.