



U.S. Citizenship
and Immigration
Services

(b)(6)

Date: **MAR 31 2014** Office: CALIFORNIA SERVICE CENTER

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:

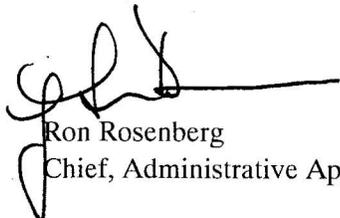
SELF-REPRESENTED

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 Guinea, as the fiancé 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 for failure to submit required initial evidence. The petitioner submits additional evidence on appeal.

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.

The statutory requirement of an in-person meeting between the petitioner and the beneficiary is further explained at 8 C.F.R. § 214.2(k)(2), which states:

The petitioner shall establish to the satisfaction of the director that the petitioner and K-1 beneficiary have met in person within the two years immediately preceding the filing of the petition. As a matter of discretion, the director may exempt the petitioner from this requirement only if it is established that compliance would result in extreme hardship to the petitioner or that compliance would violate strict and long-established customs of the K-1 beneficiary's foreign culture or social practice, as where marriages are traditionally arranged by the parents of the contracting parties and the prospective bride and groom are prohibited from meeting subsequent to the arrangement and prior to the wedding day. In addition to

establishing that the required meeting would be a violation of custom or practice, the petitioner must also establish that any and all other aspects of the traditional arrangements have been or will be met in accordance with the custom or practice. Failure to establish that the petitioner and K-1 beneficiary have met within the required period or that compliance with the requirement should be waived shall result in the denial of the petition. Such denial shall be without prejudice to the filing of a new petition once the petitioner and K-1 beneficiary have met in person.

The regulation does not define what may constitute extreme hardship to the petitioner. Therefore, each claim of extreme hardship must be judged on a case-by-case basis taking into account the totality of the petitioner's circumstances. Generally, a director looks at whether the petitioner can demonstrate the existence of circumstances that are (1) not within the power of the petitioner to control or change, and (2) likely to last for a considerable duration or the duration cannot be determined with any degree of certainty.

Factual and Procedural History

The petitioner filed the fiancé(e) petition with USCIS on May 17, 2013. The petitioner and beneficiary were therefore required to have met in person from May 17, 2011 to May 17, 2013. The director issued a Request for Evidence (RFE) that informed the petitioner that she must submit page 2 of the Form I-129F; evidence of having met the beneficiary in person during the required time period or a request to waive the meeting requirement; evidence of the termination of the beneficiary's first marriage; evidence of the petitioner and beneficiary's 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 beneficiary. In response, the petitioner submitted a completed page 2 of the Form I-129F. The director found the petitioner's response insufficient and denied the petition.

On the appeal notice the petitioner states that she met the beneficiary in April 2013 in Kuala Lumpur, Malaysia. The petitioner submits a divorce document that does not have an English language translation; a Form G-325A, Biographic Information, for the petitioner; and airline boarding passes.

Analysis

As stated at section 214(d)(1) of the Act, the relevant time the personal meeting between the petitioner and the beneficiary must occur is within the two-year period before the petition is filed. On the appeal notice the petitioner declares that she met the beneficiary in April 2013 in Malaysia, but the record lacks evidence that the petitioner and the beneficiary have met in person within the requisite period preceding the filing of the petition. The airline boarding passes show that on April 22, 2013 the petitioner traveled from Hong Kong to Vancouver, Canada, and from Canada to Portland, Oregon. However, the airline boarding pass that shows travel on April 17, 2013 is not legible as to the traveler or the destination. The petitioner has not provided any other evidence such as flight itineraries, passport admission stamps, receipts, photographs of the couple together, or affidavits from third parties to establish by a preponderance of the evidence that she and the beneficiary have met during the required period. Furthermore, the petitioner has not provided any evidence that she merits a favorable exercise of discretion to exempt her from the meeting requirement.

Page 4

Conclusion

The appeal will be dismissed for the above stated reasons. 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 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.