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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: **MAY 22 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:

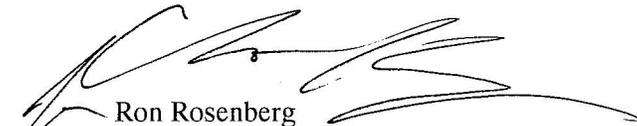
SELF-REPRESENTED

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 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 the Philippines, 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 pursuant to 8 C.F.R. § 103.2(b)(8)(ii) because the petitioner failed to submit the Biographic Information Sheet (Form G-325) for the petitioner and the beneficiary.

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 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, in pertinent part:

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

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 initially filed a fiancé(e) petition with USCIS on the beneficiary's behalf in June 2011 that was approved in January 2012, but the beneficiary's non-immigrant visa application was denied in July 2012. The petitioner filed the instant fiancé(e) petition with USCIS on February 11, 2013. The petitioner and the beneficiary were required to have met in person between February 11, 2011 and February 11, 2013. The director denied the nonimmigrant visa petition because the petitioner failed to submit Forms G-325 for himself and the beneficiary.

The record contains: evidence of the petitioner's U.S. citizenship; a copy of the petitioner's U.S. passport page that shows Philippine entry stamps dated August 31, 2010 and September 19, 2012 and Philippine departure stamps dated September 4, 2010 and September 22, 2012; airline boarding passes; a photograph of the petitioner and the beneficiary together; an original statement from the petitioner of his intent to marry the beneficiary in the United States within 90 days of her admission into the United States in K-1 status; and undated letters from the petitioner.

In response to the AAO's March 19, 2014 Request for Evidence (RFE), the petitioner submitted a letter, dated April 11, 2014, and a Form G-325 for himself and the beneficiary. Although the petitioner stated in his letter that he was enclosing an original statement from the beneficiary of her intent to marry the petitioner in the United States within 90 days of her admission into the United States in K-1 status, the original statement was not included in his submission.

Analysis

The relevant evidence demonstrates that the petitioner and the beneficiary have met in person within the two-year period immediately preceding the filing of the petition. However, the record is not complete as it lacks an original statement from the beneficiary of her intent to marry the petitioner within 90 days of her admission into the United States in K-1 status. 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).

Conclusion

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