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



U.S. Citizenship
and Immigration
Services

Date: **MAY 23 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 petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained. The petition will be approved.

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 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 fiancé(e) petition because the petitioner failed to submit any initial evidence or supporting 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:

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 filed the fiancé(e) petition with USCIS on August 24, 2012. Therefore, the petitioner and the beneficiary were required to have met in person between August 24, 2010 and August 24, 2012. The director denied the nonimmigrant visa petition because the petitioner failed to submit any initial evidence or supporting documentation.

On appeal, the petitioner submits: evidence of the petitioner's U.S. citizenship; the petitioner's travel itinerary to Cambodia; a page of the petitioner's U.S. passport showing a Cambodia entry stamp dated July 29, 2012 and a Cambodia departure stamp dated August 11, 2012; photographs of the petitioner and beneficiary together; money transfers from the petitioner to the beneficiary; correspondence between the petitioner and the beneficiary; an English translation of the beneficiary's birth certificate; a Form G-325A, Biographic Information, for the petitioner and the beneficiary; two passport-style photographs of the petitioner and two of the beneficiary; a letter from an attorney, dated June 19, 2002, stating that the petitioner's divorce is complete; two pages of an order, dated May 28, 2002; and a divorce decree for the petitioner's second marriage.

In response to the AAO's Request for Evidence the petitioner submitted 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 copy of his divorce judgment from his first wife.

Analysis

The record now contains all of the evidence required to establish the beneficiary's eligibility. The relevant evidence demonstrates that: (1) the petitioner and the beneficiary have met in person within the two-year period immediately preceding the filing of the petition; and (2) the petitioner and beneficiary are legally able 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 these 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). On appeal, the petitioner has met this burden. The appeal will be sustained and the petition will be approved.

ORDER: The appeal is sustained.