



U.S. Citizenship
and Immigration
Services

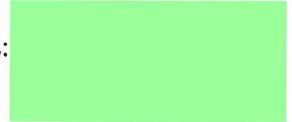
(b)(6)



Date: **MAY 23 2014**

Office: CALIFORNIA 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:

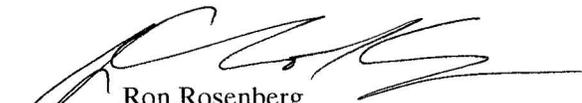
SELF-REPRESENTED

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.

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 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 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 September 17, 2012. Therefore, the petitioner and the beneficiary were required to have met in person between September 17, 2010 and September 17, 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 his U.S. citizenship; copies of his U.S. passport pages that show Philippine entry stamps dated February 27, 2010, January 25, 2011, and January 10, 2012, and Philippine departure stamps dated March 13, 2010, February 18, 2011, February 16, 2012; evidence of the dissolution of the petitioner's first marriage; evidence that the beneficiary's first marriage is null and void; bank records; airline boarding passes for 2007; photographs of the petitioner and the beneficiary together in 2007; and a wedding card that shows that the petitioner and the beneficiary were participants in a wedding ceremony held in the Philippines in December 2007. On the Form I-129F the petitioner states that he met the beneficiary in 2007 and has visited her every year since.

In response to the AAO's March 31, 2014 Request for Evidence (RFE) the petitioner submitted a Biographic Information sheet (Form G-325A) for the petitioner and the beneficiary; original statements from the petitioner and the beneficiary to establish their mutual intent to marry within 90 days of the beneficiary's admission into the United States in K-1 status; and photographs to corroborate the petitioner's claim of meeting the beneficiary in person during his visits to the Philippines on January 25, 2011 and January 10, 2012.

Analysis

The record now demonstrates by a preponderance of the evidence 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 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.