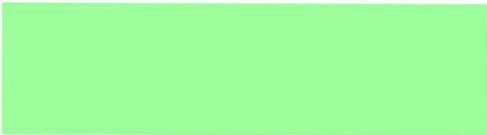




**U.S. Citizenship
and Immigration
Services**

(b)(6)



Date: Office: VERMONT SERVICE CENTER FILE



MAY 28 2014

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:

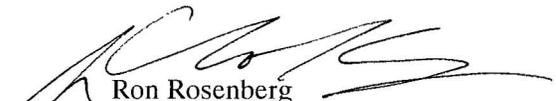
SELF-REPRESENTED

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 Acting Director, Vermont Service Center (the director), denied the nonimmigrant petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The director's decision will be withdrawn and the petition will be remanded for further action.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Haiti, 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 he and the beneficiary met in person during the two-year period immediately preceding the filing of the petition or demonstrate that he is eligible for a waiver of the meeting requirement. On appeal, the petitioner submits additional evidence.

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 his discretion may waive the requirement that the parties have previously met in person. . . .

Factual and Procedural History

The petitioner filed the fiancé(e) petition with U.S. Citizenship and Immigration Services (USCIS) on June 4, 2012. Therefore, the petitioner and the beneficiary were required to have met in person between June 4, 2010 and June 4, 2012.

On the appeal notice, the petitioner stated that he traveled to Haiti on April 17, 2012 and that the beneficiary became his fiancée on April 19, 2012. The petitioner submits photographs of himself with the beneficiary, copies of pages of his U.S. passport, and receipts. The evidence submitted on appeal demonstrates that the petitioner and beneficiary met in person within the requisite period.

The AAO issued a Request for Evidence (RFE) of the remaining requirement: 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.

Analysis

The petitioner has provided no response to the RFE. The record, therefore, is incomplete as it lacks the 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, as required by section 214(d)(1) of the Act.

Conclusion

Although the petitioner has overcome the director's ground for denial on appeal, the petition cannot be approved because he remains ineligible on another basis. Because the director did not address the lack of intent-to-marry statements in her decision, the petition will be remanded to the Vermont Service Center for further action, such as issuance of an RFE and a new decision.

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.

ORDER: The director's decision is withdrawn and the matter remanded for entry of a new decision. If the new decision is adverse to the petitioner, the director shall certify it to the AAO for review.