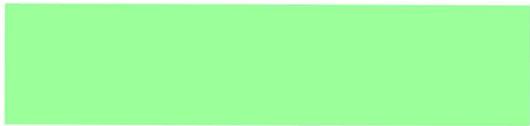




**U.S. Citizenship  
and Immigration  
Services**

(b)(6)



Date: **NOV 05 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,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg  
Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center (the director), denied the nonimmigrant visa petition, and the matter came before the Administrative Appeals Office (AAO) on appeal. The appeal was dismissed. The AAO will now reopen the matter *sua sponte* pursuant to 8 C.F.R. § 103.5(a)(5)(i) to withdraw its prior decision, and sustain the appeal. The petition will be approved.

#### *Pertinent Facts and Procedural History*

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 § 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 evidence of the beneficiary's intent to marry within 90 days of her admission into the United States.

In a decision dated September 12, 2014, we dismissed the applicant's appeal upon finding that the applicant had submitted some, but not all, of the required initial evidence. We noted that the record still lacked a statement from the beneficiary to establish her intent to marry the petitioner within 90 days of her admission into the United States in K-1 status. We also noted that there was no evidence that the applicant and the beneficiary had met in person between June 20, 2011 and June 20, 2013, which is the two-year period immediately preceding the filing of the petition

On October 6, 2014, we received a submission from the petitioner including a letter from the beneficiary expressing her intent to marry the petitioner, money gram receipts and photographs of the petitioner with 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 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.

*Analysis*

The petitioner has now submitted a statement from the beneficiary to establish her intent to marry the petitioner within 90 days of her admission into the United States in K-1 status.

Additionally, the record contains photographs of the petitioner with the beneficiary and passport stamps indicating that they met in person in June 2012, which is within the two-year period immediately preceding the filing of the petition.

*Conclusion*

In fiancé(e) visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. 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.

**ORDER:** The matter is reopened. The September 12, 2014 decision of the AAO is withdrawn, and the appeal is sustained.