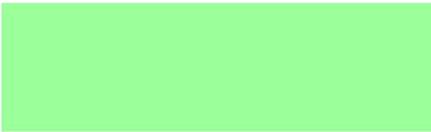




U.S. Citizenship
and Immigration
Services

(b)(6)



Date: **SEP 08 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. 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 visa 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 Iran, 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 because the petitioner failed to establish that she met the beneficiary in person during the two-year period before she filed the Petition for Alien Fiancé (Form I-129F). 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 [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 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 October 17, 2013 without sufficient supporting evidence. For this reason, the director issued a request for additional evidence and, in response, the petitioner submitted additional documentary evidence including a letter from the petitioner, passport-style photographs and the Form G-325A for the beneficiary and the petitioner, and a 2008 travel itinerary.

The director denied the petition finding that the petitioner had failed to submit evidence to establish that the he and the beneficiary had met during the two-year period immediately preceding the filing of the petition as required under section 241(d) of the Act, or that meeting the beneficiary in person would violate strict and long-established customs of the beneficiary's foreign culture or social practice or cause extreme hardship to the petitioner. The director also noted that the petitioner failed to submit evidence of the beneficiary's intent to marry.

On appeal, the petitioner explains that he could not meet the beneficiary prior to their official religious engagement. He submits a copy of a document, dated January 7, 2014, verifying the couple's engagement. The petitioner also submits his itinerary and boarding passes for travel to Tehran, Iran in July 2014. Lastly, the petitioner submits photographs of the beneficiary and petitioner together.

Analysis

The petitioner has not submitted probative evidence that he and the beneficiary met in person between October 17, 2011 and October 17, 2013, which is the two-year period immediately preceding the filing of the petition, or evidence that the petitioner merits a favorable exercise of discretion to exempt him from such requirement pursuant to section 214(d)(1) of the Act and the regulation at 8 C.F.R. § 214.2(k)(2). The petitioner submitted evidence of his meeting with the beneficiary in July 2014, after the filing of the fiancé petition. On appeal, the petitioner states that he was unable to meet the beneficiary until the couple's official engagement and religious nuptials. The beneficiary and petitioner have already met, but their meeting fell outside the two-year period preceding the filing of the petition.

The evidence of the couple's meeting in July 2014 would be relevant to a new fiancé(e) petition that the petitioner may file for the beneficiary in the future, but it has no relevance to whether the couple met during the period applicable to this petition.

Pursuant to 8 C.F.R. § 214.2(k)(2), the petitioner may be exempted from the requirement for a meeting with the beneficiary if it is established that compliance would:

- (1) result in extreme hardship to the petitioner; or
- (2) that compliance would violate strict and long-established customs of the beneficiary's foreign culture or social practice, as where marriages are traditionally arranged by the parents of the contracting parties and the prospective bride and groom are prohibited from meeting subsequent to the arrangement and prior to the wedding day. In addition to establishing that the required meeting would be a violation of custom or practice, the petitioner must also establish that any and all other aspects of the traditional arrangements have been or will be met in accordance with the custom or practice.

The petitioner has not established that his inability to meet the beneficiary before the filing of the petition was due to extreme hardship or strict, long-established customs. The couple's meeting a few months after filing the fiancé petition establishes that the filing of the petition was premature, but

suggests that there was no hardship or strict, long-established custom preventing their meeting during the two-year period immediately preceding the filing of the petition. The document verifying the couple's engagement does not provide any explanation why the couple was prevented from meeting during the required period.

Conclusion

The appeal will be dismissed for the above stated reasons. 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 not been met. As stated at 8 C.F.R. § 214.2(k)(2), the denial of this petition is without prejudice to the filing of a new petition.

ORDER: The appeal is dismissed. The petition remains denied.