



U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **AUG 05 2015**

FILE:

PETITION RECEIPT:

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:

NO REPRESENTATIVE OF RECORD

INSTRUCTIONS:

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) in your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page (www.uscis.gov/i-290b) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the nonimmigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a native and citizen of the United States who seeks to classify the beneficiary, a native of a citizen of Honduras, as the fiancée of a U. S. 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 did not submit required evidence. 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. . . .

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, 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.

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 does not define what may constitute extreme hardship to the petitioner. Therefore, each claim of extreme hardship must be judged on a case-by-case basis taking into account the totality of the petitioner's circumstances.

Factual and Procedural History

The petitioner filed the Form I-129F on March 19, 2014, without the required supporting evidence. In a Notice of Intent to Deny dated August 7, 2014, the director requested that the petitioner submit evidence to establish his U.S citizenship; proof that the petitioner and the beneficiary met in person at some time during the two-year period prior to March 19, 2014, or, in the alternative, to exempt the petitioner from this requirement; two passport-style photographs for the petitioner and the beneficiary; proof of the termination of the petitioner's prior marriage; and that the petitioner and the beneficiary intend to marry one another within 90 days of the beneficiary's admission to the United States in K-1 status.

In response to the director's request, the petitioner submitted some, but not all, of the requested evidence. Specifically, the petitioner did not submit passport-style photographs of himself and evidence that he and the beneficiary intend to marry one another within 90 days of the beneficiary's admission to the United States in K-1 status. For this reason, the director denied the petition on November 19, 2014. On appeal, the petitioner submits a passport-style photograph of himself, and e-mails from an individual who states that he will provide food for the wedding and another individual who will perform the wedding. The petitioner explains that he cannot include details of the wedding date without knowing when the beneficiary will arrive.

Analysis

The petitioner has submitted some, but not all, of the required initial evidence. The *Instructions* to the Form I-129F require that both the petitioner and the beneficiary submit proof of their intent to marry one another within 90 days of the beneficiary's admission to the United States in K-1 status, which "may include a statement of intent to marry." The record lacks this evidence. The petitioner states that his evidence of correspondence concerning plans for their wedding establishes that he and the beneficiary intend to marry one another, thereby satisfying this requirement. This evidence, however, does not show that the petitioner and the beneficiary intend to marry one another within 90 days of the beneficiary's admission into the United States in K-1 status. 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, USCIS may, in its discretion,

deny the petition for lack of initial evidence. The petitioner failed to submit the required documentation, and the beneficiary may not benefit from the instant petition.

Conclusion

As the petitioner still has not submitted all of the required initial evidence on appeal, the director's decision to deny the petition shall not be disturbed. In fiancée 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.

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