



U.S. Citizenship
and Immigration
Services

(b)(6)



Date: **JUL 01 2015**

FILE: [REDACTED]
APPLICATION RECEIPT #: [REDACTED]

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:

NO REPRESENTATIVE OF RECORD

INSTRUCTIONS:

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for 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, 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 petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of Laos, 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. On appeal, the petitioner submitted a letter signed by the beneficiary expressing her intent to marry.

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, 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 January 27, 2014, without sufficient supporting evidence. For this reason, the director issued a request for additional evidence and, in response, the petitioner submitted additional documentary evidence but failed to submit a letter signed by the beneficiary attesting to her intent to marry within 90 days of her admission into the United States.

The director denied the petition, finding that the petitioner had failed to submit evidence of the beneficiary's intent to marry within 90 days of her admission into the United States. The petitioner timely appealed the director's decision. On appeal, the petitioner submitted a letter signed by the beneficiary expressing her intent to marry the petitioner within 90 days of her admission in accordance with section 214(d) of the Act.

Upon a *de novo* review of the record, we found the evidence sufficient to establish the beneficiary's intent to marry within 90 days of admission into the United States. We found, however, that the evidence of record was insufficient to establish that the petitioner and the beneficiary met in person within two years prior to filing the Form I-129F. A Request for Evidence (RFE) was issued requesting that the petitioner provide sufficient evidence that he and the beneficiary met in person within two years prior to filing the Form I-129F petition. The petitioner responded with additional documentary evidence.

Analysis

The petitioner has not provided sufficient credible and probative evidence that he and the beneficiary met in person between January 27, 2012 and January 27, 2014, which is the two-year period immediately preceding the filing of the petition, or evidence that he 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).

In response to the RFE, the petitioner submits copies of his U.S. individual income tax returns; copies of bank statements; a copy of the beneficiary's birth certificate; a copy of an "engagement record" dated November 14, 2008; copies of the petitioner's passport containing immigration stamps, which was already in the record; a copy of a travel itinerary for travel from Seattle to Taipei on October 10, 2012 and from Taipei to Bangkok on October 11, 2012. The itinerary also shows that the petitioner left Bangkok to Taipei and to Seattle on December 11, 2012. The record also contains a copy of an itinerary for travel from Anchorage, Alaska to Taipei, Bangkok, and Vientiane on September 13, through December 17, 2014; as well as other documents previously in the record. The petitioner also submitted photographs of the couple purportedly taken in Vientiane, Laos, PDR in December 2014.

The travel itinerary from October 2012 indicates that the petitioner flew to Bangkok on October 11, 2012, and his passport contains stamps indicating that he then traveled by land from Thailand to Laos on October 12, 2012. Although the evidence submitted by the petitioner indicates that he was in Laos in October 2012, the petitioner did not provide a statement that he in fact met the beneficiary during that visit or other evidence, such as photographs of them together during the visit. The RFE issued by the director specifically requested the petitioner to provide statement that they have met in person and containing details of the date and circumstances of their meeting. The photograph submitted by the petitioner in response to our RFE shows that they met in December 2014, after the petition was filed. However, as the petitioner is required to establish that he and the beneficiary met in the two years preceding the filing of the petition, this evidence is insufficient to establish eligibility for the benefit sought. Consequently, as the record is presently constituted, the petitioner has not satisfied section 214(d)(1) of the Act, which requires him to demonstrate that he and the beneficiary have previously met in person within 2 years before the date of filing the petition.

Conclusion

As the petitioner has failed to establish by a preponderance of the evidence that he and the beneficiary have met in person during the requisite period, the appeal will be dismissed. 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); 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.