



U.S. Citizenship
and Immigration
Services

(b)(6)

DATE: JUL 09 2015

FILE: [REDACTED]
PETITION 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

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,

A handwritten signature in black ink that reads "Ron Rosenberg".

Ron Rosenberg
Chief, Administrative Appeals Office

DISCUSSION: The Director, Vermont 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 Guyana, as the fiancé of a U.S. 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 did not establish that she and the beneficiary met in person during the two-year period immediately preceding the filing of the Form I-129F, Petition for Alien Fiancé(e) (Form I-129F), or that she is exempt from such a requirement. On appeal, the petitioner provides a personal statement and evidence of her financial circumstances.

Applicable Law

Section 101(a)(15)(K) of the Act provides nonimmigrant classification to, in pertinent part:

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.

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 22, 2012. Therefore, the petitioner and beneficiary were required to have met between March 22, 2010, and March 22, 2012. On the Form I-129F, the petitioner had indicated "yes" to the question about whether she and the beneficiary had met in person within the two-year period preceding the filing of the petition. In the box following that question, the petitioner wrote that she and beneficiary met on December 19, 2009. However, their December 2009 meeting occurred several months before the start of the two-year period preceding the filing of the petition.

In a September 7, 2012, request for evidence, the director asked the petitioner for evidence of having met the beneficiary in person during the required time period or additional evidence to request a waiver of the meeting requirement. The director also requested that the petitioner submit proof of legal termination of their prior marriages; passport-style photos for the petitioner; and Forms G-325A, Biographic Information sheet, for the petitioner and the beneficiary. In response the petitioner provided some of the requested evidence. She did not provide proof of having met the beneficiary during the two-year period immediately preceding the filing of the Form I-129F, or a properly completed Form G-325A for the beneficiary.¹

In denying the petition, the director stated that the petitioner had not demonstrated that she met the beneficiary in person during the required time period and she did not submit evidence to request a waiver of the meeting requirement. The director noted that the petitioner submitted documentation of her December 2009 meeting with the beneficiary, which was not relevant as it was outside of the two-year period preceding the filing of the petition.

¹ Although the director in his decision states that the petitioner "successfully submitted both G-325A forms, the Form G-325A for the beneficiary is incorrectly completed. Specifically, the beneficiary's present address and employment history mirror the address and employment history indicated on the petitioner's Form G-325A. Also, the beneficiary's form is signed by the petitioner instead of the beneficiary. The AAO conducts appellate review on a *de novo* basis. See *Soltane v. DOJ*, 381 F.3d 143, 145 (3d Cir. 2004).

On appeal, the petitioner asserts that travelling to Guyana was a hardship to her due to financial difficulties she experienced during the period preceding the filing of Form I-129F. The petitioner states that her financial hardship began in December 2008, when she was laid off from a position she had held for ten years that paid her \$20.00 per hour, and she was unemployed until February 2009. Although she subsequently found work paying \$10.00 per hour, she was again laid off in January 2010 and remained unemployed for a year. Her unemployment insurance ended in September 2010. In addition, the petitioner provides evidence of costly expenses involving her car, a 2011 notice of foreclosure on her home, and utility repairs that resulted in having no running water between August 2010 and January 2011. The petitioner also described her efforts to mitigate her financial situation by becoming a mentor parent, although she then needed to borrow money to prepare her home to meet state program requirements. The record includes supporting documentation of these financial circumstances that occurred during the two-year period preceding the filing of the Form I-129F. Also included in the record is evidence showing that the beneficiary and petitioner met in Guyana in April 2012.

Analysis

Although the petitioner and the beneficiary have met in person in Guyana, their meeting fell outside the two-year period preceding the filing of the petition. The evidence of the couple's meeting in April 2012 has no relevance to whether the couple met during the period applicable to this petition.

The issue here is whether the petitioner has submitted sufficient evidence to establish that compliance with the meeting requirement would cause her extreme hardship. The petitioner asserts that travelling would have caused her extreme hardship due to her financial condition. The record includes evidence of the petitioner's financial difficulties during the relevant period that support her assertions that she was unable to travel and that doing so would have amounted to extreme hardship. On appeal, the petitioner has established that compliance with the meeting requirement would have caused her extreme hardship, considering her unusual and prolonged financial hardship. The relevant evidence also demonstrates that the petitioner merits a favorable exercise of discretion to waive the meeting requirement due to the extreme hardship compliance would cause the petitioner.

The record, however, still lacks evidence from the petitioner and the beneficiary of their intent to marry one another within 90 days of the beneficiary's admission into the United States in K-1 status; a Form G-325A, Biographic Information, for the beneficiary; and a passport-style photo for the beneficiary.

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 fiancé 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.