



U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: JUL 13 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

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, Vermont 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 Cote d'Ivoire, 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).

Although the petitioner submitted a Form G-28, Notice of Entry of Appearance as Attorney or Representative, with his petition, the individual named is not an accredited representative authorized under either 8 C.F.R. § 292.1 or 8 C.F.R. § 292.2 to represent the petitioner. Therefore, the petitioner shall be considered self-represented.

The director denied the nonimmigrant visa petition because the petitioner did not establish that he 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 he is exempt from such a requirement. On appeal, the petitioner submits a statement and articles about conditions in Cote d'Ivoire.

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 [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 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:

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 with USCIS on January 3, 2012. Therefore, the petitioner and the beneficiary were required to have met in person between January 3, 2010 and January 3, 2012. When he filed the petition, the petitioner stated that he met the beneficiary in the Cote d'Ivoire in August 2009 and that they had planned to get married in 2010; however, the wedding was postponed to 2012 because of political unrest and upheaval in the country.

In a May 11, 2012 Request for Evidence (RFE), the director asked the petitioner to submit evidence showing either that he met the beneficiary in person during the required time period or that he merits a waiver of the meeting requirement. In response, the petitioner submitted evidence purportedly reflecting his August 2009 trip to Cote d'Ivoire, including travel tickets and photographs.

In denying the petition, the director determined that the petitioner had not established that he and the beneficiary met in person during the two-year period immediately preceding the filing of the petition or that he is exempt from such a requirement. On appeal, the petitioner contends that political upheaval in Cote d'Ivoire prevents him from visiting the beneficiary. The petitioner states that in 2010 his father, whom the petitioner states is a prominent politician running for office at the time, advised him not to come to Cote d'Ivoire because it was dangerous for him as his son to come to the country during armed conflict and political unrest. The petitioner states that because of the civil war his father now lives in exile in Ghana. To support his assertions, the petitioner submits articles and photographs pertaining to conflict in Cote d'Ivoire.

Analysis

The evidence of the petitioner's hardship is insufficient for USCIS to exempt him from the statutorily required meeting. The petitioner stated that he has been unable to travel to Cote d'Ivoire because of armed conflict. He also stated that it would be dangerous for him there, as his father is a prominent politician and is now in exile in Ghana. We acknowledge that the U.S. Department of

State has issued a warning advising against travel to Cote d'Ivoire because of violence stemming from armed conflict in the country. The petitioner, however, has not demonstrated that meeting in another country would have caused extreme hardship to him. Section 214(d)(1) of the Act does not require a specific location for the personal meeting, only that it take place within the two-year period before the petition is filed. The petitioner does not claim that he would be unable to travel abroad and has not discussed the possibility of traveling to a third country to meet the beneficiary. He also has not presented evidence of his father's political involvement and exile to Ghana as indicative of the risk he faced if he traveled to Cote d'Ivoire. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)).

The record also 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.

Conclusion

The statutorily required personal meeting between the petitioner and the beneficiary did not occur during the required time period, and the petitioner has not shown that he is exempt from this requirement. In addition, the record also 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.

Consequently, the beneficiary may not benefit from the instant petition and it must remain denied. The appeal is, therefore, dismissed. 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 should the petitioner and the beneficiary meet in person in the future.

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.

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