

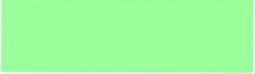


U.S. Citizenship
and Immigration
Services

(b)(6)



Date: **MAR 18 2015** 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:



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.

Thank you,

for 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 sustained and the petition will be approved.

The petitioner is a citizen of the United States who seeks to classify the beneficiary, a native and citizen of China, 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 he and the beneficiary were legally free to enter into a marriage at the time of filing the petition. On appeal, the petitioner submits additional evidence.

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 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.

Factual and Procedural History

The petitioner filed the Petition for Alien Fiancé(e) (Form I-129F) with U.S. Citizenship and Immigration Services (USCIS) on March 8, 2013. The record reflects that the petitioner has been married four times previously. On July 19, 2013 and again on November 22, 2013 the director issued a Request for Evidence (RFE), in part, for a copy of the divorce decree terminating the marriage between [REDACTED] and [REDACTED]. The petitioner failed to submit the requested evidence, and the director denied the petition.

On appeal, the petitioner submits a certified copy of the final divorce decree dated July [REDACTED] and English translation indicating his divorce (*in absentia*) from [REDACTED] Viet Nam.

Analysis

The evidence establishes that the petitioner and the beneficiary were free to enter into a prospective marriage at the time of filing the petition. The record reflects that the other requirements for the nonimmigrant visa have been met.

Conclusion

As the petitioner has met all of the Form I-129F evidentiary requirements, the appeal will be sustained and the petition will be approved. In 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 been met.

ORDER: The appeal is sustained.