



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF A-K-B-

DATE: NOV. 5, 2015

APPEAL OF VERMONT SERVICE CENTER DECISION

PETITION: FORM I-129F, PETITION FOR ALIEN FIANCÉ(E)

The Petitioner, a citizen of the United States, seeks to classify the Beneficiary as a [fiancé(e)] of a United States citizen. *See* Immigration and Nationality Act (the Act) § 101(a)(15)(K), 8 U.S.C. § 1101(a)(15)(K). The Director, Vermont Service Center denied the petition. The matter is now before us on appeal. The appeal will be sustained.

The Director denied the nonimmigrant visa petition because the Petitioner had failed to submit required initial evidence in support of the Petition for Alien Fiancé(e) (Form I-129F). On appeal, the Petitioner submits additional evidence, including a statement from the Petitioner of his intent to marry the Beneficiary within 90 days of the Beneficiary's admission into the United States, a copy of the Petitioner's U.S. passport, and travel itinerary to establish that the Petitioner and the Beneficiary met in person within the two years preceding the filing of the petition.

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*.

The Petitioner filed the fiancé(e) petition with USCIS on July 16, 2012, without all the required supporting initial evidence. For this reason, the Director denied the petition on February 8, 2013. The Director denied the petition because the Petitioner failed to comply with regulatory requirement to support his petition as outlined in the *Instructions to the Form I-129F*. On appeal, the Petitioner submitted some but not all the required evidence. The Petitioner submits evidence to demonstrate that he and the Beneficiary are free and legally able to marry upon the Beneficiary's admission into the United States. The Petitioner also submits a copy of his U.S. passport; travel itineraries evidencing the Petitioner's trips to the Philippines in 2010, 2011 and 2012; family photographs showing the Petitioner, the Beneficiary and their children in the Philippines; and acknowledgement of paternity of their two children, signed in the Philippines in 2010 and 2011, to demonstrate that he and the Beneficiary have met in person within 2 years of filing the petition. On July 22, 2015, we issued a Request for Evidence (RFE) requesting additional documents, including two passport-style photographs of the Petitioner and the Beneficiary taken within the last 30 days, completed Form G-325A, Biographic Information for the Petitioner and the Beneficiary, and a statement from the Beneficiary of her intent to marry the Petitioner within 90 days her admission into the United States. The Petitioner timely responded and submitted the requested documentation.

The evidence of record demonstrates that the Petitioner has met all of the Form I-129F evidentiary requirements. The Petitioner has now overcome the basis of the Director's denial.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here the Petitioner has met that burden.

ORDER: The appeal is sustained.

Cite as *Matter of A-K-B-*, ID# 11420 (AAO Nov. 5, 2015)